

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4402
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Wed 16a

Addendum

April 11, 2011

[Click here to go
to the original staff report.](#)

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to Wed 16a, Coastal Commission Permit Application
#A-6-PSD-11-6 (CCDC & San Diego Unified Port District), for the
Commission Meeting of April 13, 2011

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 1 of the staff report, the list of appellants shall be corrected as follows:

APPELLANTS: Commissioners Sanchez and Shallenberger; Katheryn Rhodes & Conrad Hartsell; Scott Andrews; Dan Beerman, Cathy OLeary Carey & Bill Carey; Mike Copass; Anna Daniels; John McNab; Mignon Sherer; Michael Warburton.

2. On Page 4 of the staff report, Special Condition 4b. shall be corrected as follows:

b) Replacement Parking. The Parking Management Plan shall identify the location of all of the approximately ~~176~~ 146 parking spaces to be removed. [...]

3. On Page 33 of the staff report, add the following paragraph after the third full paragraph:

The proposed project has been the subject of litigation to which the Commission is not a party. The Commission's decision on this appeal has been based solely on the applicable standard of review, which is the proposed project's consistency with the certified Port Master Plan and the public access and recreation provisions of the Coastal Act. In acting on this appeal, the Commission is not being asked to address and is not ruling on the merits of any of the claims, defenses, or other issues raised in the civil proceeding known as San Diego Navy Broadway Complex Coalition v. San Diego Unified Port District et al., San Diego County Superior Court case no. 37-2009-00096726-CU-MC-CTL (Honorable Luis R. Vargas presiding; filed August 21, 2009)

W162

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: Agenda Item **W.16.a. APPEAL NO.: A-6-PSD-11-006 (NEVP)**

Time/Date of communication: Thursday, March 17, 2011, 12:00 pm

Location of communication: Panda Inn, Horton Plaza, downtown San Diego

Person(s) initiating communication:

- Ted Harris, Principal, California Strategies, LLC
- Gary J. Bosse, Assistant Vice President - Public Works, Centre City Development Corporation
- Randa J. Coniglio, Vice President – Operations, San Diego Unified Port District
- Shaun D. Sumner, Area Manager, Real Estate, San Diego Unified Port District

Person(s) receiving communication: Bruce Reznik

Type of communication: meeting (over lunch)

Mr. Harris, and the Port and CCDC officials expressed their support for the NEVP Project, indicating that it has become a better project as a result of Coastal Commission processes. The discussion focused primarily on improvements made to the NEVP project to expand open space, public park area, and visitor-serving amenities. The project proponents also indicated that they worked closely with environmental groups and community members who had previously opposed the project, and believe outstanding issues have all been resolved. They did not expect major opposition to the project. They also highlighted the importance of this project moving forward in a timely manner as some dedicated funding may be lost if progress isn't made quickly, which would be a lost opportunity to enhance the bayfront as a 'world class gateway' to San Diego. Project proponents also provided an overview of the project (attached), which they indicated had already been circulated to staff.

Date: March 23, 2011

Signature on file

Bruce Reznik

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Ex-Parte Comm.

North Embarcadero Visionary Plan Phase 1 Visitor Serving and Coastal Access Improvements



Background

The North Embarcadero Visionary Plan (NEVP) is a multi-phased public improvement project to provide San Diego's North Embarcadero with over 1.2 miles of linear park. NEVP Phase 1 will create a destination waterfront gathering point for waterfront visitors - offering improved coastal access and low-cost and no-cost visitor serving amenities. The main project feature is an approximately five-acre environmentally-sustainable public park system with plazas, public art, kiosks, and walking paths alongside significantly improved roadways.

After years of planning, design, and outreach, NEVP Phase 1 was approved by the Port and its funding partner, the Centre City Development Corporation (CCDC), in July 2009. The Port's Coastal Development Permit (CDP) was subsequently appealed to the Coastal Commission by members of the public and two Coastal Commissioners. In April 2010, the CDP was denied as inconsistent with the Port Master Plan due to insufficient public space.

Key Revisions Since Previous Plan

Since the Coastal Commission's denial in April 2010, the Port and CCDC have worked closely with the NEVP Phase 1 appellants to resolve their concerns. Additionally, the Port and CCDC have provided over a dozen opportunities for public input to offer changes to NEVP Phase 1 and worked with Coastal staff to increase public space by an additional two acres. This improved NEVP Phase 1 which the Port, CCDC, and most of the stakeholders and community now hope will also gain the approval of the Coastal Commission.

The most significant change is the addition of the Lane Field setback park/plaza. This component, called Phase 1D of the CDP, will add approximately 2.0 acres of additional public space to the project. The park/plaza will be conducive to both passive and active coastal recreation. Additionally, the new project includes stronger commitments to replace parking, to provide a low-cost shuttle service to serve the project area, and to enhance public access opportunities through a comprehensive Port Master Plan Amendment.

Project Description

The Project is divided into three distinct sub-phases:

- Phase 1A: West Broadway (roadway improvements)
- Phase 1B: North Harbor Drive (public park/plaza, pedestrian paths, public art)

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- Phase 1D: Lane Field Setback Park/Plaza (significant public park/plaza)

NEVP Phase 1 will result in a significant destination and waterfront gathering point that will provide cohesive and flexible public open space for waterfront visitors. The public space will include a mix of hardscape and landscape, with areas for passive recreation such as sitting and picnicking. The realignment of North Harbor Drive will accommodate maritime operations, waterfront visitors, a contiguous 105-foot wide linear esplanade along the water's edge, and a significant public park/plaza. NEVP Phase 1 will provide a grand civic gathering place for the local community and San Diego visitors, and a public benefit amenity and enjoyment space that can be managed for large public gatherings, events, and festivals for locals and California visitors alike.

Stakeholder Support

After over a dozen opportunities for public comment since the April 2010 Coastal Commission hearing, NEVP Phase 1 now enjoys the support of many including:

- Former NEVP Phase 1 appellants Ian Trowbridge, Diane Coombs, and Don Wood
- Unite HERE Local #30 (Hotel Employees Restaurant Employees Union)
- Lane Field San Diego Developers, LLC (adjacent private developer)
- Editorial board of the San Diego Union Tribune
- Downtown San Diego Partnership
- Port Tenants Association
- Downtown Residents Group
- City of San Diego

Key Coastal Act Considerations

The Coastal Act protects coastal access, supports removal of barriers to access, and encourages waterfront recreation and low-cost visitor serving amenities. NEVP Phase 1 is a public project that will provide no-cost public access walking, running, and bicycling paths on San Diego Bay; places for visitors to sit and stroll under groves of jacaranda trees and enjoy world-class public art features; and public plazas suitable for civic events.

The area currently within NEVP Phase 1 includes blight, decay, auto-centric roadways, and uneven and uninviting sidewalks that collectively create real and perceived barriers to access and enjoyment of the waterfront. Current conditions need repair and offer few public access amenities, such as seating, shade, and pedestrian lighting.

Not allowing the Port, CCDC, and the community to move forward jeopardizes \$28.6 million in redevelopment funding for public access - funds currently available from the Port's partner, CCDC acting on behalf of the Redevelopment Agency of the City of San Diego.

The NEVP Phase 1 CDP is tentatively scheduled to be before the Coastal Commission in April. Supporting the new consensus-based NEVP Phase 1 CDP this spring will protect the currently available redevelopment funds that are crucial to create an activated, accessible, lower-cost visitor-serving waterfront for all Californians to access and enjoy.

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Agenda Item 16a

April 7, 2011

RECEIVED

APR 08 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
San Diego Coast Area
7575 Metropolitan Drive Suite 103
San Diego, CA 92108-4421

RE: Agenda Item number 16a: Support for Appeal No. A-6-PSD-11-006, Port of San Diego Proposed Changes to North Embarcadero Public Access; Opposition to Coastal Development Permit

Honorable Commissioners:

This office represents Save Everyone's Access (SEA), including but not limited to Scott Andrews, in the appeal of the Coastal Development Permit (CDP) issued by the Port of San Diego for the realignment of North Harbor Drive and associated changes to streets and public amenities in the North Embarcadero area.¹ We wrote on January 26, 2010 to express opposition to the prior iteration of the Port's proposed CDP. Those concerns have not sufficiently been addressed.

Summary of Position

We agree with the Staff Report that the actions described in the CDP are inconsistent with the currently approved Port Master Plan (PMP). They would preclude important public projects described in the PMP such as the Broadway Landing Park from going forward. The actions described in the CDP are also part of a much larger proposal to develop a *second* extensive cruise ship facility serving an unknown potential future cruise ship operation. This facility would be in addition to the already existing Carnival Cruise facility at the B Street Pier Terminal. Both facilities are soon to be abandoned by

¹ The Appeal Staff report lists Scott Andrews as an appellant, but he appealed on behalf of Save Everyone's Access. There were numerous other appellants listed as signatories on this appeal but they are not listed in the staff report. The appellants are Scott Andrews, Dan Beeman, Cathy O'Leary Carey, John Carey, Mike Copass, Anna Daniels, John McNab, Mignon Sherer, and Michael Warburton. (Exhibits to Staff Report, p. 129 of 301.)

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Letters from Appellants' Representative

Carnival when it leaves San Diego. When considered cumulatively, the Port's plans have devastating impacts on public access and the public's rights in tidelands in the North Embarcadero area.

While we agree with the Staff Report that a substantial issue exists with regard to the Port's approved CDP, we do not agree that the issue can be addressed by placing conditions on the CDP in the hopes that substantial issues of inconsistency with the approved Port Master Plan will be addressed in the future. Instead, the CDP must made consistent with the current PMP or be denied until the Port Master Plan is amended in a future process. The Port is currently in the process of revising its PMP so no permit should be approved that might prejudice that process.

For these reasons, SEA urges the Commission to find substantial issue with the requested permit, deny the revised conditional permit, require the Port of San Diego to disclose the full impacts, both direct and cumulative, of its plans on public access to the Embarcadero, and require that the Port provide sufficient mitigation for those impacts *before* it is granted a CDP.

I. The PMP Includes Important Commitments to Public Access.

The Port Master Plan, which includes a portion of the Broadway Street pier within the area governed by the standards in the plan, recognizes the area between Ash and Broadway as the most important civic zone on the waterfront. (PMP, p. 63.) Furthermore, the PMP calls for plazas on the Broadway Pier to provide open space as part of Broadway Landing Park. (*Ibid.*) Cruise ship functions are primarily served by a terminal at the B Street pier with the Broadway Pier providing "overflow" berthing, not primary ship access as is apparently planned by the Port. (*Ibid.*) "Broadway Pier will continue to provide recreational space on its plaza and viewing platform." (PMP, p. 64.) A key part of the civic space envisioned for the North Embarcadero consists of "passive green spaces (parks) between the plazas on the esplanade, providing recreational opportunities and places for people to relax, play, and enjoy Bay Views." (PMP p. 63.) The centerpiece of this park system is an oval shaped public park called "Broadway Landing Park" at the intersection of Harbor Drive with Broadway. (PMP, figure 11.) (See also attachment A, excerpts from various documents showing the importance placed on a prominent public park at Broadway and Harbor.)

During the Navy Broadway Complex Project Draft Environmental Impact Statement review process in April 1990, the Navy prepared public presentations that stated "The planned 10-acre park includes 2-acres of NBC [Navy Broadway Complex], portions of Lane Field, and the closing Intersection of Harbor Drive and Broadway."

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(Enclosure A.) Diagrams showed a "10-Acre Park. (*Ibid.*, Figure 1-4, Figure 3-5, Figure 3-9.) and stated "Mitigation in the 1990-1992 EIR for the navy Broadway Complex includes the 10-acre park at the Foot of Broadway and Open Space on Broadway Pier." (*Ibid.*, Fig. 1-2.)

This Broadway Landing Park was understood to be, and represented to the public as, a five acre park by former Port Commission Chairman Michael McDade. He stated during a UCSD Television production analyzing planning in San Diego called "Path to Paradise: Downtown" that "At the foot of Broadway, at the Broadway Pier, there has been a vision for a long time of having a park down there. . . . Under this plan [the NEVP], almost a five acre park would be created for that purpose." (<http://www.youtube.com/watch?v=uEqXxhJm2to> at minute 38:12)

However, now, *instead of a five or ten acre park, the staff report proposes to allow Broadway Landing Park to be reduced to a mere 1.25 acre park under Special Condition #1.* This is insufficient and a violation of the PMP. Staff notes various elements that must be analyzed in an EIR for a future PMP amendment. (Staff Report, p. 28.) Until this EIR is completed and a PMP amendment is actually proposed, no CDP that is inconsistent with the current requirements of the current PMP-- including the staff-proposed CDP-- may be approved.

The following are the changes that the Port is proposing in its PMP amendment process, with the subject CDP being the first step to implementing these changes:

- elimination of the signature oval Broadway Landing Park;
- elimination of parks along the water's edge for recreation (there is no greenspace on the water's edge or west of Harbor Dr.);
- elimination of public viewshed by: a new Broadway Pier terminal, cruise ship operations, and jarcaranda tree groves, large pavillions, and three rows of palm trees on either side of Broadway Pier, inserted into now-open Embarcadero;
- elimination the majority of area coastal access parking with no replacement identified;
- elimination of the curvilinear public serving Grape Street Pier;
- elimination Broadway Pier as part of Broadway Landing Park.

The changes are summarized in a graphic prepared and attached to this letter. (Enclosure D.)

These drastic changes to the PMP must be disclosed to the public in a fully open

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review process. If they are approved after adequate public review, then it would be appropriate to review a CDP that implements the changed PMP vision. But until that happens, it is inappropriate and improper to attempt to approve a CDP that implements a portion of the planned changes before the complete project is understood by the public and approved by decisionmakers.

II. The Actions in the CDP are Part of a Much Larger Plan of Port Development Which Cannot Be Approved Until After Proper Environmental Review.

The Port of San Diego has apparently changed its views of the entire public access scheme envisioned by the Port Master Plan. The project currently before the Commission on appeal would preclude construction of the Broadway Landing Park, result in less overall park space, and would instead convert the key area of Harbor Drive and Broadway into a service road for the cruise terminal at Broadway Pier. Since the CDP fundamentally changes public access along the North Embarcadero, the Port must first amend the PMP if it wishes to undertake this radical reconfiguration of public space, and only consider decisions about reconfiguring and reducing Broadway Landing Park in light of the PMP amendment process.

The Port has apparently adopted a strategy of deliberately concealing the true extent and reasons for the fundamental changes now under consideration, while moving forward with a proposal to facilitate a cruise terminal for a company that has pulled out of San Diego.

Carnival Cruise lines has announced its intention to terminate operations in San Diego. ("Carnival Cruise Lines pulling out of San Diego", Lori Weisberg, Union-Tribune, January 13, 2011, <http://www.signonsandiego.com/news/2011/jan/13/san-diego-to-lose-yet-another-cruise-ship/>.) Nevertheless, the Port is pursuing changes to the Embarcadero that are designed to facilitate a cruise terminal at the Broadway Pier location. Such a terminal apparently requires various undisclosed off-pier water and land security setbacks and barriers. A cruise terminal at this location raises bus and truck entry and exit road issues that have not yet been disclosed or resolved in a public process. Security needs associated with the Carnival cruise terminal will effectively block the public from using much of the pier and Embarcadero area. SEA has obtained several internal e-mails of the Port and Centre City Development Corporation through a Public Records Act request. Those e-mails show deliberate concealment of the queuing of buses and trucks in the area of Broadway and Harbor Drive as it states "Just a reminder we don't want to mention the queuing of buses/trucks to support the cruise ship operations on W. Broadway...". (Encl. B) Port staff also discusses using stormwater standards as a pretext for abandoning the Port Master Plan's proposed configuration of access and open

space. ["One spin for the wider median might be related to the City's requirements to limit urban stormwater runoff."] (Attachment B, Gary Bosse e-mail, December 10, 2009)

The Commission must not allow the Port to "piecemeal" project review and effectuate a bit by bit abandonment of the Port Master Plan standards for public access and park space. The CDP now on appeal is but a small part of an overall Port plan to radically reconfigure the North Embarcadero from the approved Port Master Plan. The Port, in a separate process consisting of a purported "de minimis" amendment to the PMP and an addendum to an Environmental Impact Report (EIR), already has proposed the conversion of Broadway Pier from public plaza providing secondary berthing for visiting cruise ships into a primary berthing facility with a large cruise ship terminal. (See attachment C, addendum and de minimis PMP application.) As a result, with minimal public oversight, Broadway Pier, and indeed the entire North Embarcadero, is proposed to be transformed into serving the cruise ship industry, and specifically, the Carnival Cruise Corporation, at the expense of all other public uses.

In addition, in yet another separate document, the Port has proposed deletion of the curvilinear pier at Grape Street, which is currently included in the PMP as an important element of public access to the North Embarcadero. (See attachment C, Notice of Preparation of for North Embarcadero Port master Plan Amendment, March 3, 2011 ["Remove reference and graphic providing a new curvilinear pier at West Grape Street"].)

Deletion of this public amenity needs to be cumulatively analyzed with the other changes proposed by the Port. The net effect of the various changes is to seriously diminish public access to and enjoyment of the San Diego waterfront.

In their appeal of the Port's CDP approval, Commissioner Shallenberger and Sanchez also identified the fact that "The approved project includes removal of the vast majority of the existing street and off-street parking spaces in the project area; in total, 146 parking spaces would be removed." (Appeal, p. 5.) The Staff Report has attempted to address this with Special Condition #4 to have the Port identify replacement spaces. However, such spaces must be identified and public reviewed, not approved in a later process that is invisible to the public.

III. The Cumulative Impacts of the Port's Plans Will Significantly Diminish Public Access to San Diego's Waterfront in Violation of the Coastal Act.

It is imperative that the Commission understand the full extent of the Port's plans, and the full implications for public access, both physical and visual, to the North Embarcadero and San Diego Bay, prior to approving the CDP. The CDP will preclude major public elements of the Port Master Plan from going forward. The Commission

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should therefore deny the CDP currently on appeal, reject the Port's proposed revised CDP, and require that the Port produce a complete direct and cumulative EIR impact analysis for the North Embarcadero area, to include all piers and proposed projects. Between the substantial changes at Broadway Pier, the deletion of the Grape Street Pier, the apparent abandonment of the Broadway Landing oval park and esplanade currently planned in the PMP, and a strategy of deliberate concealment and piecemeal review, the Port is seeking to fundamentally alter the balance achieved in the PMP, largely for the benefit of a potential future cruise terminal user, at the expense of all other waterfront users. The Commission should reexamine the proposed terminal's impacts in light of its effect on the oval park area and the impact of homeland security zones and terminal roads on the PMP.

The following sections of the Coastal Act are relevant, and would be violated by the proposed CDP:

Section 30210 requires the Commission to "maximize access" and provide "recreational activities" consistent with public safety needs and public rights. Contrary to this, the proposed CDP eliminates planned parks and public serving piers that are currently planned in the PMP.

Section 30213 states that "Lower cost visitor and recreational facilities shall be protected, encouraged, provided." However, the CDP eliminates all greenspace in the project area. The Lane Field Setback Park/Plaza is CDP-designated passive, not recreational. The CDP cancels the recreational Broadway Landing Park, Grape Street Pier, and Esplanade Parks along the waterfront (North Lawn, South Lawn, and others). (See Enclosure D.)

Section 30224 states "Increased recreational boating use of coastal waters shall be encouraged." However, only the Broadway Landing Park mitigation of architect Lindsay Brown for the Navy Broadway parcel offers San Diego Bay downtown waters edge access to recreational boaters.

Section 30231 requires that "the quality of coastal waters . . . shall be maintained and, where feasible, restored through, among other means, . . . controlling runoff." The urban runoff including contaminants such as oil from vehicles on the piers is not controlled.

Section 30234 requires that "Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded". The CDP's cancellation of public and commercial serving Grape Street Pier voids PMP-

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designated access for both commercial fishing and recreational boating.

Section 30251 requires that the "scenic and visual qualities of coastal areas shall be considered and protected as a resource." The Port Master Plan states: "The wharf side remains clear of objects or furnishings that would block Bay views." (PMP, p. 63.) Contrary to this, the CDP would block the prime downtown viewshed at the foot of Broadway with a pavillion, a jacaranda grove, and three rows of palm trees added to the blockage already created by the new Broadway terminal. Also, the Lane Field park views would be blocked. The CDP's two 18' high pavillions violate PMP height restriction of 12 feet in the area of the esplanade. (See PMP Amendment #27 Coastal Commission Staff Report of June 28, 2001, item Wed 10b, p. 22 ["The plan establishes a 12 foot high building limit in the area of the proposed esplanade...."].) The PMP Amendment Staff Report also states "South [of the USS Midway] views of the water and bayfront are almost entirely blocked by existing development." (*Ibid.*, p. 15.) Because of the blockage of views to the south by the Midway, the remaining prime downtown view from Broadway is even more critical.

IV. Insufficient Time Has Been Provided for Review of the Staff Report in Support of a Modified CDP Approval.

The staff report has not been provided in time to be used to support issuance of a modified CDP, even if it has been provided in a timely manner for a finding of substantial issue with the Port approved CDP. In order for the staff report to serve as a functional equivalent document for approval of a CDP for purposes of CEQA, it must be provided far enough ahead of the approval of the CDP for the public to meaningfully review and comment on it. That has not occurred. The staff report in this case was not made available to the public until March 23, 2011. A public hearing notice was not sent out until April 1, 2011. The hearing at which approval is proposed is on April 13, 2011. With only 21 days separating the public availability of the staff report and the potential approval of a CDP based on the report, (and only 12 days between public notice of the hearing and the hearing), the public has had insufficient time to review and comment on it. Therefore, although Save Everyone's Access agrees that a vote may be taken on finding a Substantial Issue with the Port's CDP, we object to any attempt to approve a revised CDP at the April 13 hearing.

V. Conclusion

Save Everyone's Access urges the Commission to find a substantial issue with the Port's proposed CDP, to deny the revised CDP proposed by staff or at least continue it to give sufficient time for review, and to instruct the Port of San Diego that if it wishes to

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California Coastal Commission


April 7, 2011

Page 8

Appeal A-6-PSD-09-43

pursue the wholesale reconfiguration of the North Embarcadero, it must only do so after it has allowed the public the opportunity for input through the process of amending the PMP.

Sincerely,

Signature on file 
Douglas P. Carstens

Attachments:

- A: Various Representations of Broadway Landing Park as a 10-acre park
- B: e-mail from Gary Bosse, Dec. 16, 2009
- C: Revised Notice of Preparation of Draft Environmental Impact Report dated March 3, 2011 for "North Embarcadero Port Master Plan Amendment Project"
- D: Graphic of public elements proposed to be eliminated by CDP and PMP Amendment.

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Enclosure A

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Officer in Charge
Western Division
Naval Facilities Engineering Command
Detachment, Broadway Complex



Draft Environmental Impact Statement
Navy Broadway Complex Project
San Diego, California

By approving the Navy Broadway Complex, the City of San Diego and CCDC also re-approved the NBC EIR Figures 1-2, 1-4, 3-4, 3-5, 3-6, and 3-9 and the open space Broadway Pier Shown on the following slides.

The planned 10-acre park includes 2-acres of NBC, portions of Lane Field, and the closing Intersection of Harbor Drive and Broadway.

NBC incorporation is critical to the PMP

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April 1990

Changes to the North Embarcadero includes NBC, Lane Field North and South, Broadway Cruise Ship Terminal, B Street Cruise Ship Terminal, Old Police Headquarters, and Rocco park. And the deletion of the 10-acre park at Broadway and Harbor, loss of open space on Broadway Pier, and the missing 1,542 required parking spaces for NBC. These piecemeal approvals in the North Embarcadero should be integrated together.

The North Embarcadero Visionary Plan – Phase 1 is related to the Navy Broadway Complex (NBC) because by the City Council and CCDC's approval of NBC, they also re-approved the EIR and planned:

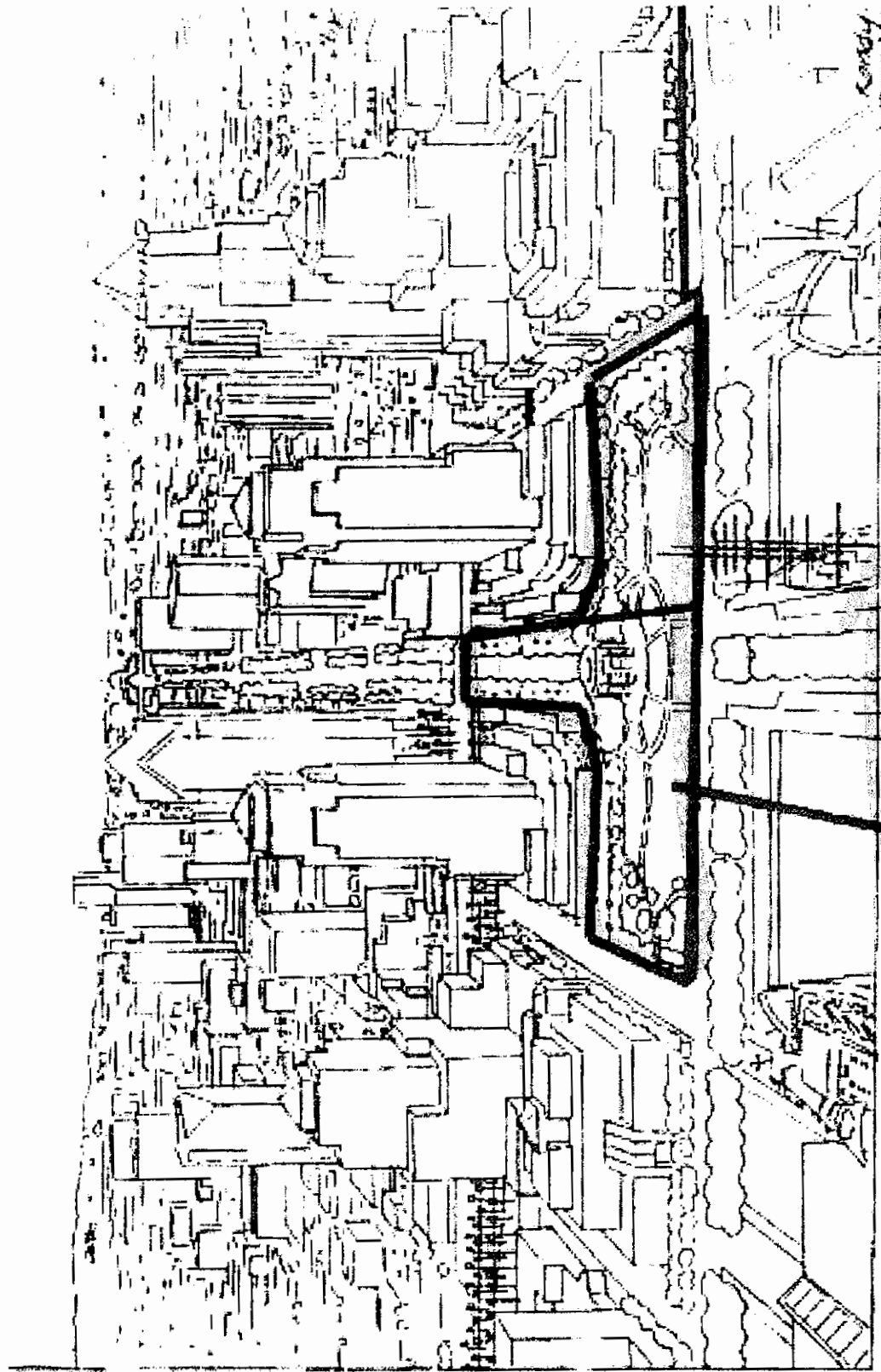
10-acre park at the foot of Broadway as mitigation for NBC,

Broadway Pier as public open space and park as mitigation for NBC,

The 1,542 required off-site parking spaces in the North Embarcadero area as mitigation for NBC.

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17-C



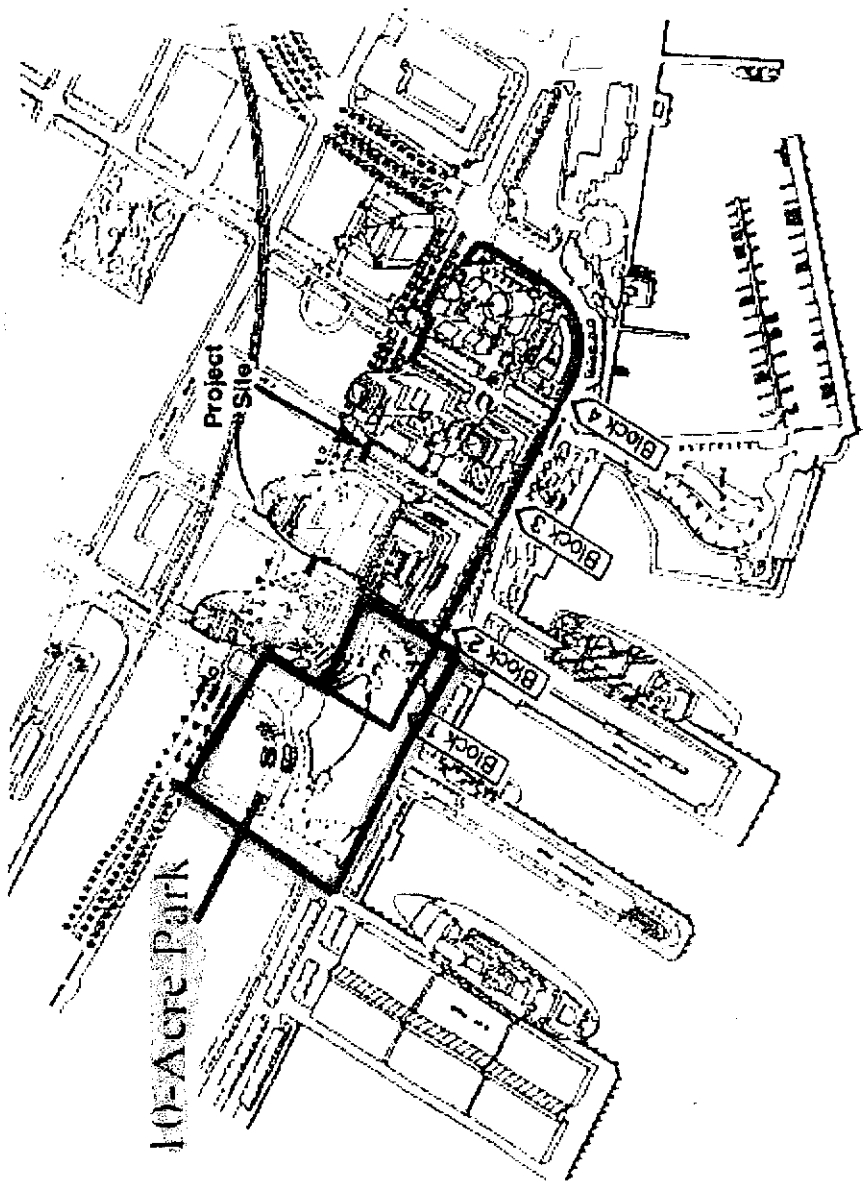
10-Acre Park.

Perspective Sketches
Broadway Terminus,
Alternative A

Navy Broadway Complex Project

Figure 1-4.

Mitigation in the 1990/1992 EIR for the Navy Broadway Complex includes the 10-acre Park at the Foot of Broadway and Open Space on Broadway Pier.



Block Number	Land Use	Gross Square Footage	Parking	Max. Height (Feet)
1	Commercial Office Open Space (1.9 acres)	650,000	850	400
2	Navy Office - Ship 12 - New Museum	321,000 868,000 55,000	420 below-grade 800	350
3	Above-Grade Parking	320,000	below-grade	
4	Hotel	745,000	750	250
	Hotel	475,000	below-grade	
	Hotel	20,000	375	150
Total		3,290,000	2,105	

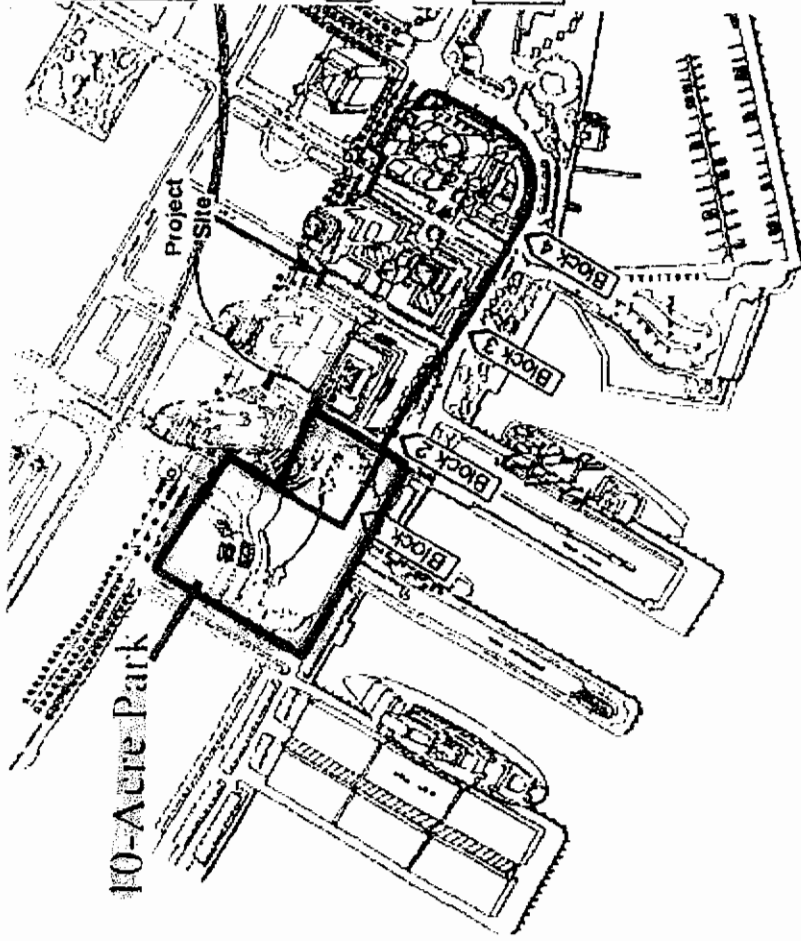
Site Density = 5.45 Gross FAR

Alternative A Illustrative
Navy Broadway Complex Project

Figure 1-2.



Figure 1-2



PROGRAM

Block Number	Land Use	Gross Square Footage	Parking	MAX. HEIGHT (Ft.)
1	Commercial Office	650,000	800	420
2	Open Space (1.9 acres)		below-grade	
	Navy Office	251,000	400	350
	• Bldg. 12	660,000	below-grade	
	• Navy Museum	55,000	800	
3	Below-Grade Parking	300,000	below-grade	
	Hotel	145,000	750	250
4	Hotel	475,000	below-grade	
	Hotel	25,000	375	150
Total		2,250,000	2,600,000	

Site Density = 9.45 Gross FAN

Alternative A

Navy Broadway Complex Project

3-7

Figure 3-4

Illustrative Site Plan, Alternative A
Navy Broadway Complex Project

1-9

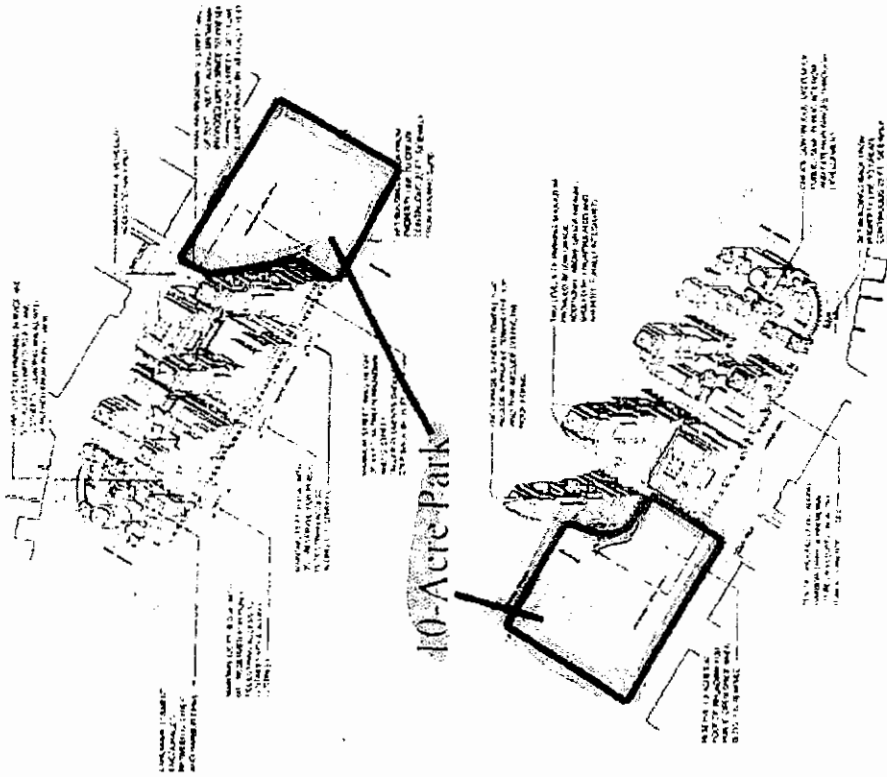
Figure 3-5



Figure 3-4



MADETO JAN 1988



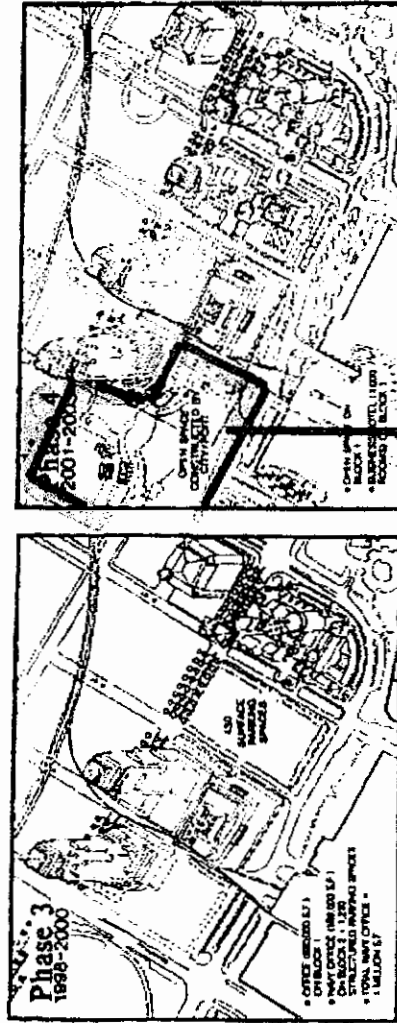
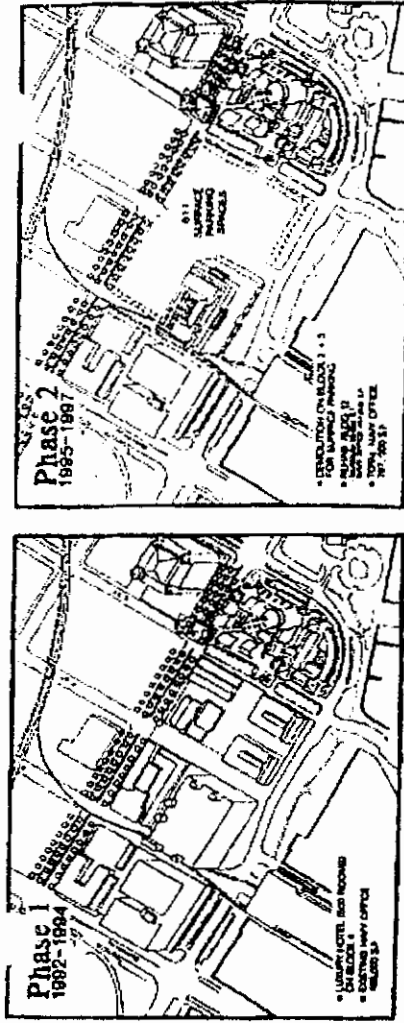
Draft Massing Guidelines
Alternative A

Navy Broadway Complex Project

3.10

Figure 3-6.

MASSING
Figure 3



10-Acre Park

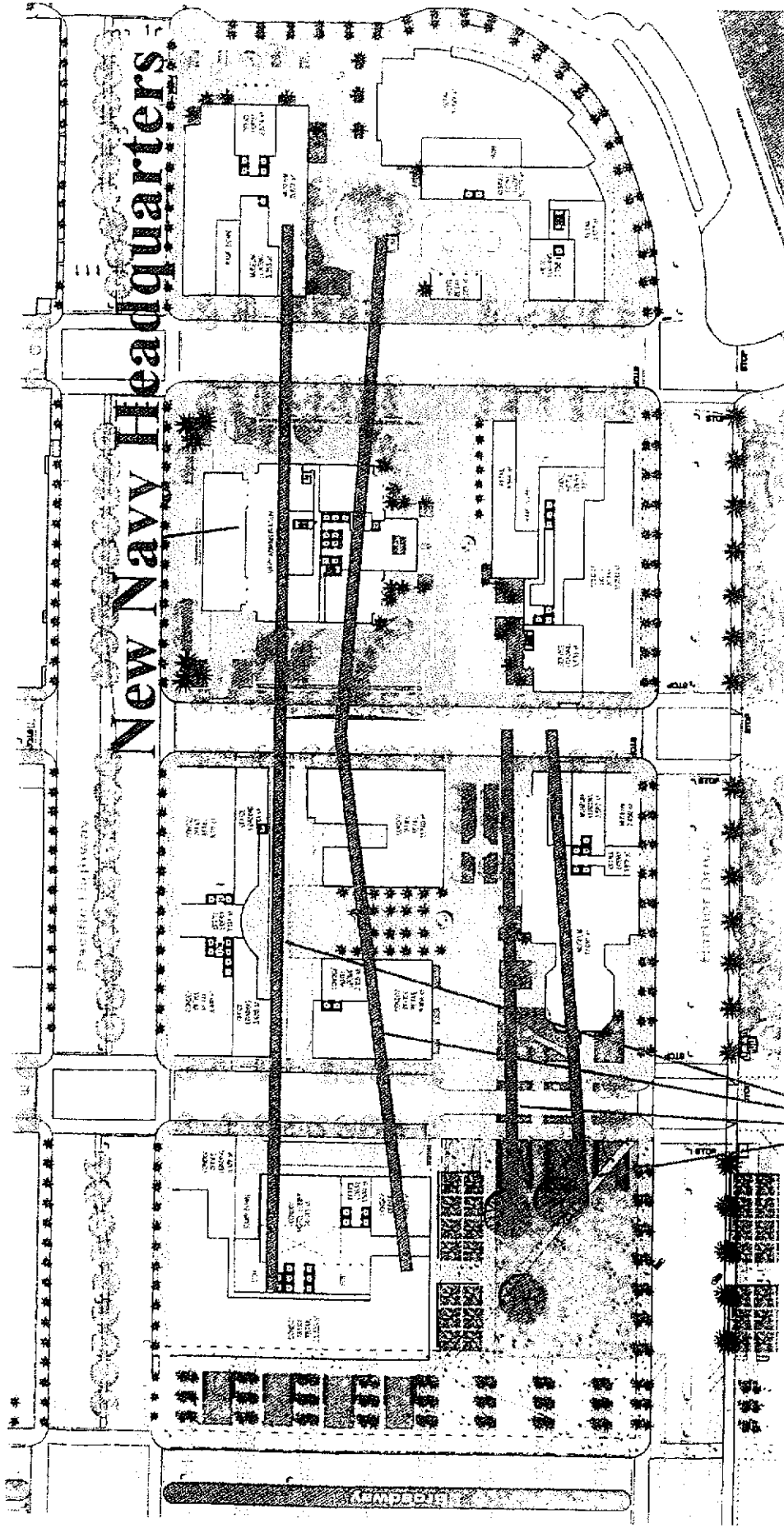
Possible Phasing Program
Alternative A

Navy Broadway Complex Project

3.15

Figure 3-9

MASSING
Figure 3-9



Active Faults, Anticlines, or Anomalies.

Manchester Pacific Gateway - Masterplan
 1/2" = 1' - 0"

Scale: 1/2" = 1' - 0"
 1/2" = 1' - 0"



Scale: 1/2" = 1' - 0"
 1/2" = 1' - 0"

2-Acres of Navy Broadway Complex (NBC) is part of the planned 10-Acre park at the Foot of Broadway and Harbor Drive.



The Port's new Mitigation is the Rocco park South of the NBC which has the same active fault lines traversing the NBC.

If Mitigation for the Port Master Plan is off-site from the NEVP Phase 1, then the whole North Embarcadero area should be looked on as a whole including off-site impacts from NBC and the active faults in the area.

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Enclosure B

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13970

From: Gary Bosse
To: "Lisa Leweck",
cc: Mark Johnson; Scott Jordan (sjordan@civitasinc.com); Gordon Lutes,
Linda Scott; John Keating; Shaun Sumner; sochoa@portofsandiego.org;
Phil Bona;
Subject: NEVP: Tomorrow's Meeting with Traffic
Date: Wednesday, December 10, 2008 3:49:00 PM

Just a reminder that we don't want to mention the queuing of bussess/trucks to support the cruise ship operations on W. Broadway at tomorrow's meeting. If we continue to get push back from City staff, I believe we should keep this in our back pocket. The City staff that we'll be meeting with tomorrow wouldn't see this as an appropriate use of the street anyway.

One spin for the wider median might be related to the City's requirements to limit urban stormwater runoff. The brick paved areas appear to drain into the planting beds so that no water that lands within the median will ever end up in a storm drain curb inlet. This could backfire though as I believe the City staff wants the median wider (to encompass the rumble strip area).... just a warning and a thought.

Gary J. Bosse
Senior Project Manager - Construction
Centre City Development Corporation
401 B Street, Suite 400
San Diego, CA 92101
619.533.7163 Office
619.236.9148 Fax
619.884.6130 Cell
bosse@ccdc.com

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Enclosure C

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San Diego Unified Port District
P.O. Box 120488
San Diego, California 92112-0488
(619) 686-6283

**REVISED NOTICE OF PREPARATION
of a
DRAFT ENVIRONMENTAL IMPACT REPORT**

PROJECT TITLE: "NORTH EMBARCADERO PORT MASTER PLAN AMENDMENT PROJECT" (SCH #2009101026)

LOCATION: North Embarcadero Area of Planning District 3, Centre City Embarcadero

REFERENCE: California Code of Regulations, Title 14, Sections 15082(a), 15103, 15375.

The San Diego Unified Port District (District) will be Lead Agency and will prepare an Environmental Impact Report (EIR) for the project identified above. We need to know any of your agency's issues pertaining to the scope and content of the environmental information, which is germane to your agency's statutory responsibilities in connection with the Proposed Project. Your agency may need to use the EIR prepared by out agency when considering your permit or other approval for the project.

Revisions to the Notice of Preparation issued on October 18, 2010 as well as the proposed project's description, location, and the possible environmental effects are contained in the attached materials.

Due to the time limits mandated by State law, your comments must be sent at the earliest possible date but not later than 30 days after receiving this notice. **Comments regarding environmental concerns will be accepted until 5:00 p.m. on Monday, April 4, 2011**, and should be mailed to: San Diego Unified Port District, Environmental & Land Use Management Department, 3165 Pacific Highway, San Diego, CA 92101, or emailed to jhirsch@portofsandiego.org. Please provide the name of a contact person for your agency. For questions on this Notice of Preparation, please contact James Hirsch, Senior Redevelopment Planner, at (619) 686-7269.

A public scoping meeting regarding the proposed EIR will be held on Wednesday, March 16, 2011 at 6:00 p.m. at the Embarcadero Planning Center (former Coral Reef Restaurant), 585 Harbor Lane, San Diego, California 92101.

Signature: _____

Darlene Nicandro

Director, Environmental & Land Use Management

Date: _____

3/3/11

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**NOTICE OF A PUBLIC SCOPING MEETING
and REVISED NOTICE OF PREPARATION for
a DRAFT ENVIRONMENTAL IMPACT REPORT
for the
NORTH EMBARCADERO
PORT MASTER PLAN AMENDMENT**

Publication of this Notice of a Public Scoping Meeting and Revised Notice of Preparation (NOP) for the North Embarcadero Port Master Plan Amendment is in compliance with the California Environmental Quality Act (CEQA). **This NOP is a revision from the Port's October 18, 2010 NOP, (SCH Number 2009101026), as described below and with new revised wording shown underlined.** Public comments are requested within thirty (30) days following receipt of the revised NOP in accordance with CEQA Guidelines §15082. Comments are solicited regarding the scope and content of the environmental evaluation for significant issues as well as reasonable mitigation or alternatives that address those issues for the Lead Agency to consider addressing in an Environmental Impact Report (EIR). The San Diego Unified Port District (Port) is Lead Agency. **Comments will be accepted until 5:00 p.m. on April 4, 2011.** Comments should be addressed as follows:

Re: North Embarcadero PMPA
San Diego Unified Port District,
Environmental and Land Use Management Department,
P.O. Box 120488, San Diego, CA, 92112-0488.

VIA EMAIL: jhirsch@portofsandiego.org

All comments previously submitted for the NOP issued on October 18, 2010 will be considered. It is not necessary to resend the previously submitted comments. Comments may also be submitted at the public scoping meeting to be held on Wednesday, March 16, 2011 from 6:00 – 8:30 p.m. at the Embarcadero Planning Center (formerly Coral Reef Restaurant), 585 Harbor Lane, San Diego, California 92101. The Port will conduct additional public workshops of the Citizens Advisory Committee for the PMPA over the following year which will be publicly noticed.

PROJECT DESCRIPTION

The Port requires preparation of an EIR under CEQA for the North Embarcadero Port Master Plan Amendment (PMPA). The intent of the PMPA is to create a clear, simple, and consistent Port Master Plan for the North Embarcadero portions of the City Centre Embarcadero Planning District (Planning District 3) through modifications to the text,

tables, and graphics. Planning District 3 is generally bounded by Pacific Highway to the east, Laurel Street to the north, and the Bay to the west and south. The North Embarcadero portion of Planning District 3 encompasses the Port's waterfront from the Laurel Street / North Harbor Drive intersection in the northwest to and including the G Street Mole Park in the southeast.

The original 2009 Notice of Preparation (NOP) for the proposed North Embarcadero EIR & PMPA included the following PMPA components:

- Adjust the Port Master Plan boundary to incorporate the Navy Pier;
- Assign land use designation(s) and future projects to the Navy Pier including a park;
- Remove reference and graphic providing a new curvilinear pier at West Grape Street;
- Change Commercial Recreation use on B Street Pier to Marine Terminal;
- Incorporate the constraints of homeland security requirements on maritime facilities and public access;
- Incorporate a bay front shuttle;
- Incorporate a new youth hostel as a permitted use;
- Specify excursion facility locations;
- Recognize the G Street Mole park as a memorial park;
- Assign development parameters and standards to 1220 Pacific Highway, the Navy facility;
- Incorporate Geographic Information Systems (GIS) into the delineation and area calculations throughout Planning District 3; and
- Incorporate other PMP text, land use and graphic modifications, as needed.

After public hearings at the California Coastal Commission on the proposed North Embarcadero Visionary Plan Phase 1 Project in February and April 2010, and four public workshops held by the Port regarding the North Embarcadero, the Port proposed a revised NOP to include the following additional PMPA components:

- Clarify the North Embarcadero planning limits within the larger Planning District 3, Centre City Embarcadero;
- Develop policies to provide low-cost visitor serving facilities consistent with the Coastal Act;
- Evaluate potential new multi-use/parking facility at West Grape Street and Pacific Highway;
- Identify and analyze a minimum of 2.5 acres of additional open space and public access opportunities that will include, but not be limited to the following options:
 - An open space set back in line with the center of the west wall of the County Administration Building, (approximately 205 feet), along the east side of North Harbor Drive from West Broadway to West Hawthorne Street including the US Navy property, Holiday Inn property and Solar Turbine's parking lot property. The County Administration Center property is excluded from this setback because it is not in the Port's jurisdiction. The Lane Field property setback would be 150 feet along Harbor Drive;

- Narrowing North Harbor Drive between West Grape Street and West Broadway and providing additional open space on the west (bay front) side of North Harbor Drive;
 - Closing portions of North Harbor Drive and West Harbor Drive;
 - Closing West Broadway from Pacific Highway to North Harbor Drive; and
 - Narrowing portions of North Harbor Drive and making it one-way for vehicular traffic.
- Incorporate a comprehensive evaluation of parks, plazas and/or other public open space in the North Embarcadero area, including an evaluation of the size and functionality of existing and planned spaces;
 - Identify opportunities to enhance pedestrian-oriented circulation and program events to activate open spaces along the North Embarcadero waterfront;
 - Evaluate potential new multi-use/parking facility at West Grape Street and Pacific Highway;
 - Evaluate potential new parking facilities to support North Embarcadero uses;
 - Identify transit stations;
 - Identify and delineate the California Coastal Trail along the Embarcadero waterfront;
 - Incorporate by reference the NEVP Parking Management Plan; and
 - Reconfigure the land use designations at the foot of West Broadway to recognize current property ownership and permitting jurisdictions.

Consistent with the Memorandum of Understanding (MOU) between the District, Lane Field San Diego Developers, LLC, and the San Diego Navy Broadway Complex Coalition—on file in the Office of the District Clerk as Document No. 57019—the Port (or "District" for the purposes of the following section) is amending the Revised Notice of Preparation to provide that the scope of the study of additional open space described in the preceding section will be as follows:

In the North Embarcadero PMPA, the District must study, at a minimum, (i) one alternative for an average 205-foot setback adjacent to North Harbor Drive as presently aligned, running from Hawthorn to the prolongation of "B" Street; and (ii) one alternative for the realignment of North Harbor Drive to the east of its present location, with the 205-foot-average setback to the immediate west of the realigned North Harbor Drive, to the immediate east of the promenade planned under the NEVP adjacent to San Diego Bay, and again running from Hawthorn to the prolongation of "B" Street. The purpose of the 205-foot setback under these two alternatives is the same as the Setback Park/Plaza. The project description and the NOP for the North Embarcadero PMPA must also be revised to include the study of these alternatives, which shall be studied on an equal footing with the primary project that is the subject of the NOP and not merely as two alternatives among the range of reasonable alternatives that must be studied under CEQA for any project. The study may include an economic analysis of the funding, feasibility, and impacts of the alternatives.

- (1) The eastern boundary of the setback may be curvilinear or otherwise articulated so long as the gross land area within the setback is the same as if the eastern boundary were drawn as a straight line.
- (2) The District must request from the City of San Diego Redevelopment Agency that funds be set aside for Future NEVP Phases identified through the North Embarcadero PMPA.

- (3) The District reserves the right to consider other alternatives in the North Embarcadero PMPA, including those without a 205-foot setback.
- (4) Except as expressly prohibited in this MOU, the Coalition has the right to fully participate in the public environmental review and public processes for the North Embarcadero PMPA.
- (5) Alternatives evaluated in the North Embarcadero PMPA must consider enhanced pedestrian connectivity within, to, and from the waterfront, and traffic circulation strategies that prioritize pedestrians over cars.

Both the land use changes and descriptions for potential facilities would be part of the PMPA. Changes to the components listed above or the addition of new components may occur as a result of public comments and/or through internal processes.

ENVIRONMENTAL CONSIDERATIONS

The EIR will address the following probable environmental effects of the Proposed Project: land use and planning, traffic, parking, climate change, air quality, geotechnical issues, hydrology and water quality, public facilities, recreation, cumulative impacts, and others as identified as part of the NOP process. The EIR will also address a reasonable range of alternatives, cumulative impacts, and additional mandatory sections as required by CEQA, and will include a mitigation monitoring and reporting program. The effects of the proposed PMPA, as well as the consistency with the Coastal Act, will also be addressed in the EIR.

COMMENTS

This NOP is available for a 30-day public review period that starts on Thursday, March 3, 2011 and ends at 5:00 pm on Monday, April 4, 2011. Comments regarding the scope and content of the environmental information that should be included in the EIR and other environmental concerns should be mailed to: San Diego Unified Port District, Environmental & Land Use Management Department, 3165 Pacific Highway, San Diego, CA 92101, or emailed to jhirsch@portofsandiego.org.

PUBLIC SCOPING MEETING

A public scoping meeting to solicit comments on the scope and content of the EIR for the proposed project will be held on Wednesday, March 16, 2011 at 6:00 p.m. at the Embarcadero Planning Center (former Coral Reef Restaurant), 585 Harbor Land, San Diego, CA 92101.

For questions regarding the NOP, please contact James Hirsch, Senior Redevelopment Planner, at (619) 686-7269.

ATTACHMENT

Figure 1. Project Location and Components

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Enclosure D

Port Master Plan (LCP) Takings: San Diego's N. Embarcadero

Cancelled:
Public
Grape St Pier

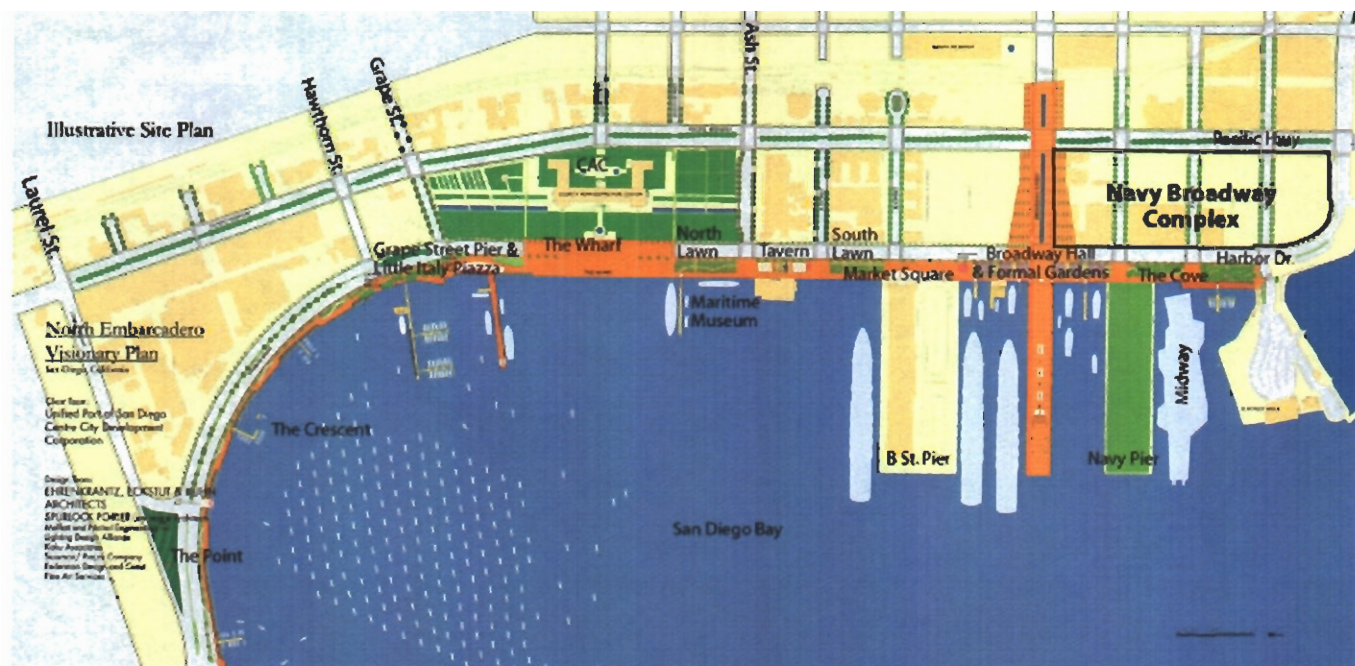
Cancelled:
"passive green spaces (parks)"
Reduced:
Coastal parking spaces

Privatized:
Public
Broadway Pier

Cancelled:
Public
Broadway Landing Park

**Port Failure to Mitigate;
Navy Pier Park**

Broadway Pier, San Diego, California



Sincerely,

BRIGGS LAW CORPORATION

Signature on file

Cory J. Briggs

cc: Shaun Sumner (via e-mail only)
Celia Brewer (via e-mail only)
Jerry Trammer (via e-mail only)
Graham Forbes (via e-mail only)

April 4, 2011

Ms. Diane Lilly, Coastal Planner
California Coastal Commission, San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4421

W162

RECEIVED

APR 04 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: **Outstanding Planning and Environmental Issues Regarding Seismic and Parking.**
North Embarcadero Visionary Plan Phase I. San Diego, California.

Dear California Coastal Commission:

According to the California Geological Survey (<http://www.conservation.ca.gov>), the active Coronado fault of the Active Rose Canyon Fault Zone (RCFZ) moved approximately 500 years ago; and is the youngest, most dangerous active fault in San Diego, with vertical displacement greater than 20 feet. San Diego Bay and the North Embarcadero areas were created by the ongoing movement of active faulting on the order of one inch every 12 years. This particular strand has the greatest potential for catastrophic failure including loss of life and destruction of property because it includes both seismic hazards of surface rupture, and liquefaction. Local government agencies either deny the existence of active faulting on liquefiable soils, and/or minimize the effect of active surface fault rupture as negligible on approved government and private high-rise structures; and subsurface public utilities within California State Public Trust tidelands.

After five years of delay, deny, and deceive tactics, the issue of active faulting in the North Embarcadero is still outstanding. Using smokes and mirrors the Port has given the CCC the illusion that the Seismic issues were resolved to the satisfaction of both the City and State Geologists. The Port's solution to this outstanding problem is to ignore the public safety problem, by claiming that active surface fault rupture is negligible and not an issue worth addressing. The City of San Diego spends multi-millions on public infrastructure projects with limited life spans due to denying the existence of active surface fault rupture, and the resulting multiple utility main breaks on public streets and transportation corridors. Please help the City, Port, and CCDC follow State law and either confirm or deny the existence of all active fault strands, establish fault buffer setback distances, and document their exact locations for incorporation into updated State of California Alquist-Priolo Earthquake Fault maps compiled by the State Geologist. Then new public utilities crossing active faults should be design for deformation using flexible connections.

The California Coastal Commission should make it clear that as part of the upcoming Port Master Plan Amendment (PMPA) it is imperative that the northern extension of the Rose Canyon Fault Zone be confirmed or denied as stated by Michael Kennedy of the California Geological Survey in 2006, and all outstanding parking issues related to the missing 1,542 parking spaces for the Navy Broadway Complex (NBC) are incorporated into the Circulation and Parking Management Plans and Scenarios.

As stated by former Port Director Don L. Nay, ***"If a development is determined not to be consistent with the Port Master Plan (PMP), then the project could not proceed or a plan amendment would be filed for review and certification by the California Coastal Commission."*** In conclusion, the NEVP Phase I project is not consistent for the Port Master Plan (PMP). Please follow the recommendation of the former Port Director Don L. Nay, and require that all outstanding issues be analyzed as part of the existing and ongoing Port Master Plan Amendment (PMPA) process. With a specific emphasis on resolving all outstanding Seismic and parking issues.

Regards,

Katheryn Rhodes and Conrad Hartsell MD, 371 San Fernando Street, San Diego, California 92106
619-523-4350 rhodes@laplayaheritage.com

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Response from Appellert

1.0 SAN DIEGO REGIONAL REGULATORY OVERSIGHT ON SEISMICITY AND ACTIVE FAULT RUPTURE.

On April 21, 1960, during the United States Presidential Election Campaign, Senator Kennedy of Massachusetts, *"acknowledged that with this campaign, it was his task to directly address the legitimate concerns of voters in the campaign. But he also offered that the task of the press was "to refute falsehood, to inform the ignorant, and to concentrate on the issues, the real issues, in this hour of the nation's peril.""* <http://www.wvculture.org/history/1960presidentialcampaign/article.html>

San Diego, California is in imminent Peril as it relates to minimum standard Regulatory Oversight, and Compliance for State and National public safety laws regarding Seismic Hazards for approved high-rise structures, and public utilities. Even in light of the 9.0 Magnitude Japan Earthquake and Tsunami of March 11, 2011; local regional County of San Diego government agencies including the Port of San Diego, the City of San Diego, CCDC, the Navy, and the North Embarcadero Visionary Plan (NEVP) Joint Powers Authority (JPA) have conspired to hide scientific evidence of active faulting in the North Embarcadero area. Specifically at the location for our new planned Navy's West Coast Headquarter at the Navy Broadway Complex (NBC) located on the Southeast corner of West Broadway and Harbor Drive. Additional locations where scientific evidence of active faulting has been hidden by the local government agencies include this Phase I project; the planned Ruocco park, which the Port promised would have a fault investigation before building permits are pulled for construction to start in a few months; and the Old Police Headquarters building along Harbor Drive. In addition to hiding scientific evidence from the State that would require all approved plans and Seismic Hazard Maps to change; local government agencies took it upon themselves to allow active fault buffer distance setbacks to be lowered from 50 feet minimum on each side, to 25 feet minimum on each side - for 50 feet total. This Engineering and Regulatory decision was made without scientific evidence to backup their Overstated position; or approval by the State Geologist based upon scientific evidence and due diligence Environmental studies.

There is no excuse to hid scientific knowledge from the State and/or Taxpayers. Therefore, we are asking the California Coastal Commissioners to require the Port of San Diego and local government agencies to Reconvene the 2006 Caltrans Technical Advisory Panel (TAP) that calculated the Seismic Design parameters for the Coronado Fault Tunnel Study. The Caltrans Seismic Advisory Board can also be consulted to resolve and map all active faults within the North Embarcadero Visionary Plan area, and set fault buffer distances, as part of the Draft EIR for the upcoming Port Master Plan Amendment (PMPA).

Seismic Hazards include Ground Shaking/Liquefaction, Tsunamis, and Surface Fault Rupture. The issue of Surface Fault Rupture in the North Embarcadero Visionary Plan area still needs to be resolved. Local government agencies refuse to abide by the State of California Seismic Safety Act on Seismic Hazard Zones, and refuse to analyze Seismic Hazards on the full North Embarcadero Visionary Plan area by using a piecemeal, phased approach for the full project area.

Instead of resolving the outstanding seismic problems, the City of San Diego and CCDC ignored the correspondence of the CGS and instead persuaded Superior Court Judge Ronald Prager to rule on April 22, 2009 that liquefaction is not a seismic hazard, and the Downtown Special Fault Zone is not a Seismic Hazard Zone as part of the Navy Broadway Complex lawsuit. As part of the draft EIR for the North Embarcadero PMPA the inaccurate ruling by Judge Prager should be

challenged by the Port of San Diego, so that all local decision-makers are aware that liquefaction is indeed a seismic hazard, and the Downtown Special Fault Zone is indeed a seismic hazard zone in accordance with California law.

San Diego Superior Court Judge Ronald Prager ruled that liquefaction does not exist in San Diego as a matter of law; because no State Seismic Hazard maps have been compiled and published for San Diego County. Figure 1 below shows that the State of California stopped the "Official Seismic Hazard Zone Maps" project at the northern San Diego County line. The Seismic Hazard Mapping program was stopped by local government officials, who may have excerpted undue Political pressure, to create the illusion that a Legal Loophole exists. And that normal Seismic Hazard such as liquefaction, active faulting, and landslides do not exist in San Diego County, specifically on Public Trust Tidelands in downtown San Diego, California.

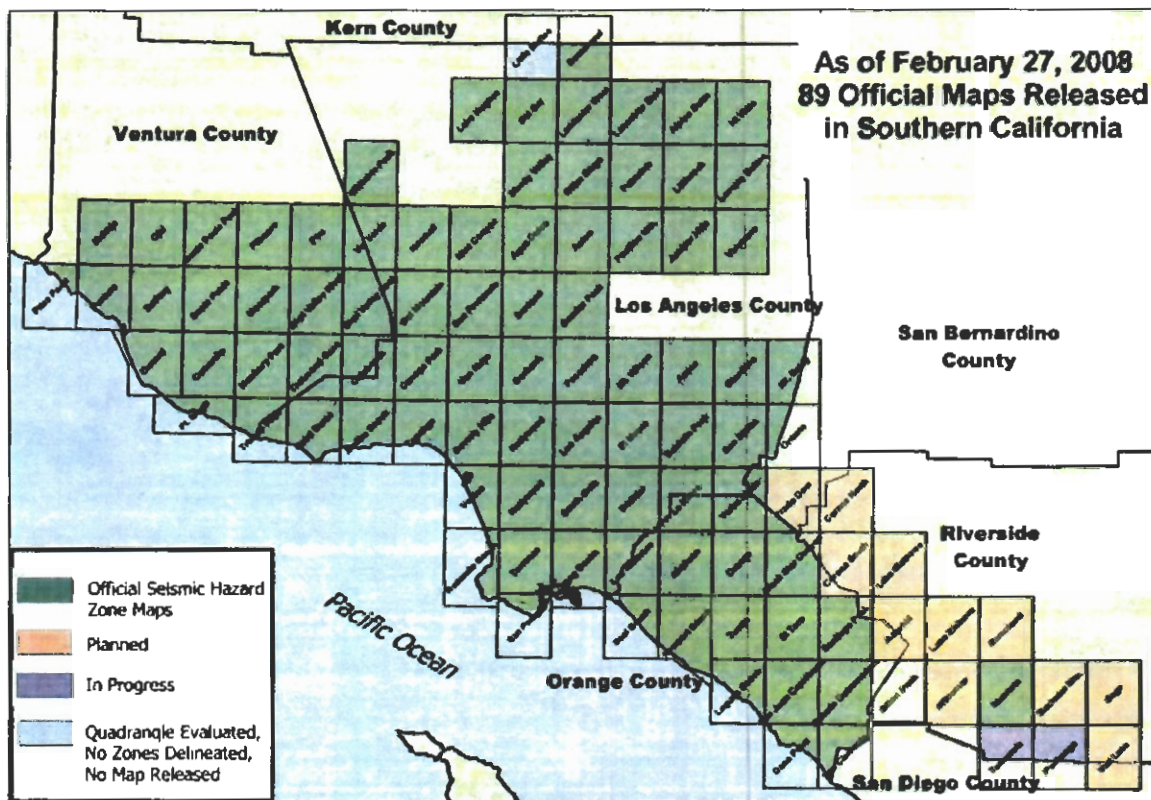


Figure 1 – Official published Southern California Seismic Hazard Zone Maps, specifically excluding San Diego County http://gmw.consrv.ca.gov/shmp/html/pdf_maps_so.html . Please note that there are no plans to publish Official Seismic Hazard Zone Maps for San Diego County in the future.

Superior Court Judge Prager also ruled that the State of California does not recognize the City of San Diego's Downtown Special Fault Zone, or its incorporation into the Seismic Safety Element of the City of San Diego's General Plan. As such, through the courts, the State of California has declared that Seismic Hazards do not exist in San Diego County. This misinterpretation of the law should be cleared.

2.0 SPECIFIC SEISMIC AND PARKING ISSUES RELATED TO THE NORTH EMBARCADERO VISIONARY PLAN (NEVP) – PHASE I.

We still have outstanding concerns regarding potential catastrophic seismic and parking issues in the North Embarcadero Visionary Plan area that should have been analyzed during the CEQA Checklist Stage.

The new report entitled *“Geotechnical Report, North Embarcadero Visionary Plan, prepared for Project Design Consultants,”* dated February 26, 2010, Project No. 2531, by TerraCosta relies on only specifically selected seismic investigations provided by the Port of San Diego that shows no active faulting under proposed structures. Fault investigation reports for the Navy Broadway Complex (NBC) and the Old Police Headquarters which document active faulting under structures were not reviewed by TerraCosta. A site-specific fault investigation exists only for a portion of the North Embarcadero where no one suspected faulting. In areas where active faulting is expected, no site-specific report exists.

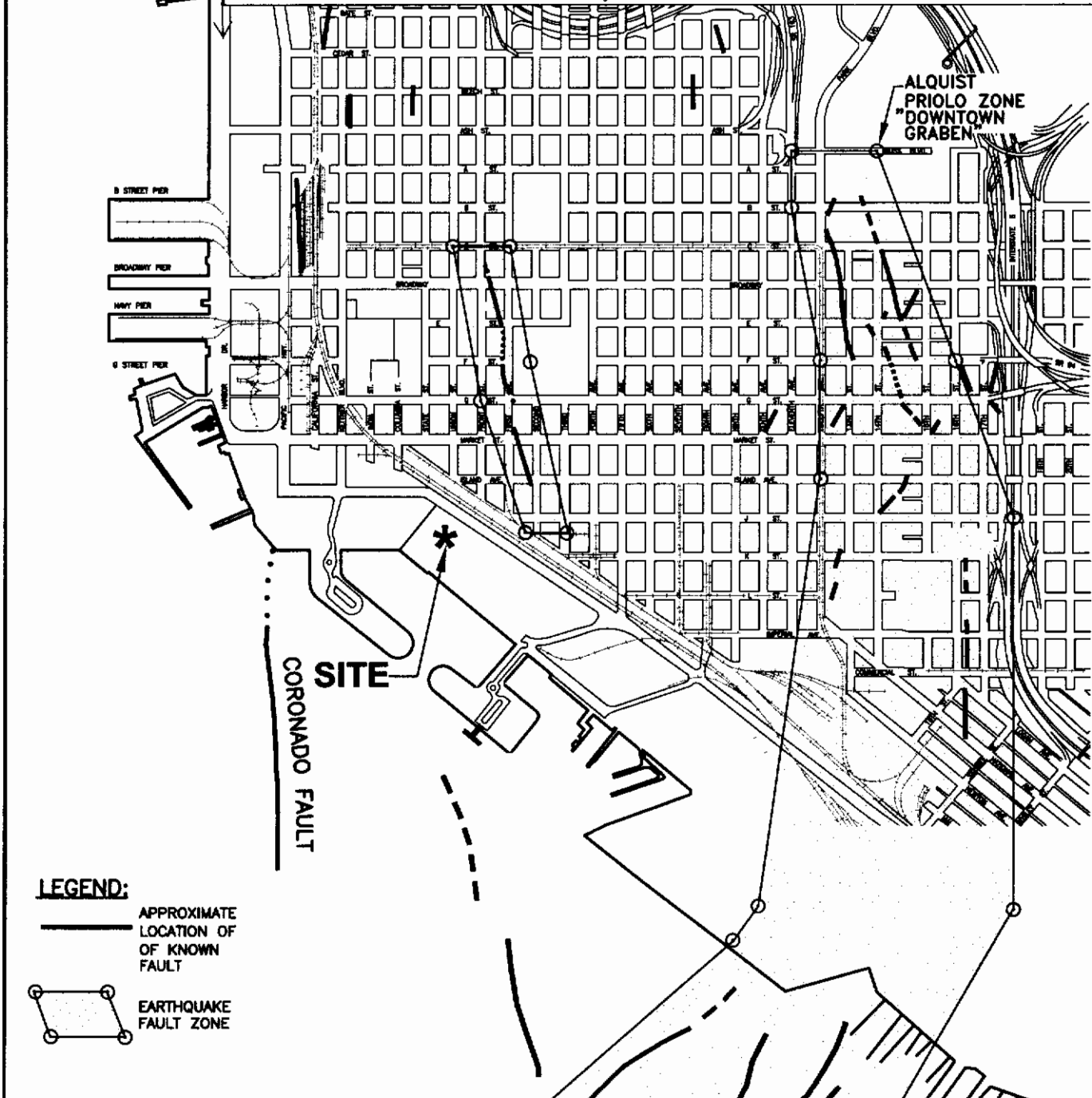
To make the issues clear, a geotechnical fault investigation was never compiled as part of the 2000 Master EIR for the NEVP, because up until 2006, the City of San Diego, the Centre City Redevelopment Agency (CCDC), and the Port of San Diego stated that Port Tidelands in downtown San Diego were not within the Downtown Special Fault Zone; and the Port has an exemption from the requirement to confirm or deny active faulting in the Project Area. On the CEQA Checklist in the Initial Study for the North Embarcadero Visionary Plan – Phase I Coastal Access Features Project dated December 2010, Section F, Geology and Soils; the Port states that the impacts of surface fault rupture were already analyzed in the 2000 NEVP Master EIR, and no new impacts of surface rupture from active faulting have since been confirmed. This information from the Port of San Diego is false and misleading, as new active faulting has been discovered within the North Embarcadero area at several locations. However since 2003, geotechnical fault investigations documenting newly found active faults in the North Embarcadero have never been turned into the State Geologist for incorporation into updated Alquist-Priolo Earthquake Fault Zone maps, or the City of San Diego’s Seismic Safety Study (SSS) maps, as is required under the State Seismic Safety Act.
<http://www.sandiego.gov/development-services/hazards/hazardsmaps.shtml>

Figure 2 is a map by URS Corporation showing Active Faulting located at the northeast corner of West Broadway and Pacific Highway within the NEVP Phase I area, which has the potential to cause massive subsurface utility infrastructure breaks including water, sewer, and gas lines within the North Embarcadero Visionary Plan Phase 1 area.

URS Corporation compiled the map as part of the Geotechnical Investigation for the New Marriott Hall, dated March 4, 2009. However the Port, URS, and the Commission’s Geologist do not believe active surface faulting resulting in public utility breaks is a substantial issue for San Diego. Therefore, they all recommend that no mitigation is required for new public utilities across known active faults. We disagree with this assessment. As shown in Figure 2, many active faults have been documented in the North Embarcadero Visionary Plan area and the neighborhood of Little Italy, that are not within State recognized Alquist-Priolo Earthquake Fault Zones due to the fact that new fault investigation reports were never turned into the State Geologist for incorporation into new updated Alquist-Priolo maps since 2003. City of San Diego’s Seismic Safety Study (SSS) maps also need to be updated with current information. The ongoing active fault creep results in avoidable broken underground public utilities, road closures, and pipe repairs, costing taxpayers multi-millions for a lack of simple engineering designs. Plus the public utility breaks create pollution that empties into San Diego Bay and the Pacific Ocean.

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Figure 2 - Map showing Active Faulting in the North Embarcadero Visionary Plan (NEVP) area by URS Corporation, dated March 4, 2009 as part of the "Geotechnical Investigation. New Marriott Hall, San Diego Marriott Hotel and Marina, 333 West Harbor Drive, San Diego, California, URS Project No. 27668035.00001." Please note that new active faults shown in red in the North Embarcadero and Little Italy neighborhoods have yet to be incorporated into the State's Alquist-Priolo Earthquake Hazard maps, and the City of San Diego's Seismic Safety Study (SSS), and CCDC's Downtown Community Plan.



LEGEND:

- APPROXIMATE LOCATION OF KNOWN FAULT
- EARTHQUAKE FAULT ZONE

DRAFT



URS

750 0 750 1500 Feet
SCALE: 1" = 1500'

**LOCAL FAULT MAP
333 W. HARBOR DRIVE
SAN DIEGO, CALIFORNIA**

CHECKED BY: DLS

DATE: 03-05-09

FIG. NO:

PM: JLN

PROJ. NO: 27668035.00001

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Congressman Bob Filner has asked the Federal Bureau of Investigations (FBI) to confirm that local government agencies have conspired and are purposely hiding scientific evidence of active faulting in the North Embarcadero area from the State Geologist for incorporation into updated Alquist-Priolo Earthquake Fault zones that would change most planning issues and building locations within our downtown waterfront. The FBI cannot start an Investigation until all legal lawsuits are resolved for the Navy Broadway Complex site. On January 25, 2011 the Navy Broadway Complex Coalition filed a new lawsuit against the Navy calling for a new environmental review of the \$1 billion project on 8 blocks of our Waterfront in order to turn the publically owned area into a large regional park.

Local government agencies have yet to confirm or deny the exact location of the northern extension of the active Coronado Fault of the active Rose Canyon Fault Zone in the North Embarcadero area of downtown San Diego. Instead of making the 5-year old outstanding issues on seismic and parking clear; using sleight of hand and wording trickery the "*Response to Appeals of North Embarcadero Visionary Plan (NEVP) Phase 1 (SDUPD CDP #A-6-PSD-11-006)*," written by Darlene Nicandro, Director of Environmental and Land Use Management by the Port of San Diego, dated March 7, 2011; and the "*Geotechnical Review, North Embarcadero Visionary Plan, San Diego, California, URS Project No. 03003261*," by URS Corporation, dated March 1, 2011 has confused the issues by implying no active faulting of any significance exists in the North Embarcadero Visionary Plan Phase 1A area, and all the parking issues have been resolved. Excerpts from the two reports include the following:

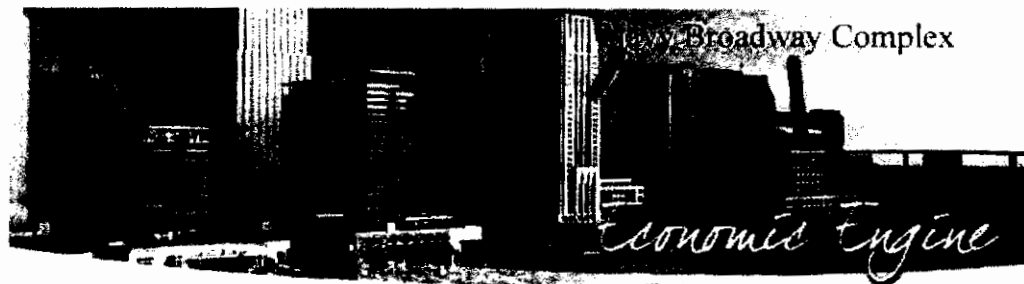
"Unrelated Parking Issues at the Navy Broadway Complex Site... The Navy Broadway Complex is not a District project, nor is it subject to the District's permitting authority. The District should not be required to mitigate for the impacts of projects over which it has no jurisdiction...." "The NEVP is in the City of San Diego's "Downtowns Fault Zone" that requires investigation of potential faulting for the proposed new developments... TerraCosta's investigation indicated the absence of earthquake faults that might impact the project. Some nearby faults are known near the project area, however, TerraCosta's investigation had shown that there were no faults projecting towards or underlying the proposed structures... We are familiar with the cited geotechnical reports, two of which were prepared by our firm... The nearby fault investigation included exploratory trenching and building excavation observations; therefore, the potential active faults that were located at those sites are well documented. None of the known faults project towards the proposed structure. The "overwater investigations performed along the eastern edge of the bay had mapped several "new" faults near the Embarcadero seawall, but none of these faults project to within 50-feet of the proposed structures."

To make the issue clear, it is the duty of local government agencies to confirm or deny active faulting in the full North Embarcadero area during planning, and mitigate for all new development projects including the Navy Broadway Complex's missing 1,542 parking spaces.

"Overwater investigations" performed for the new Cruise Ship Terminal on Broadway Pier seemed to have "mapped several "new" faults near the Embarcadero seawall." This is new Seismic information to us. Previously the Port stated that no new active faulting was found in this area. These contradicting seismic issues documenting active faulting in the North Embarcadero Visionary Plan area need to be consolidated into one map, so that all State and local government agencies are aware of the limitations to development in this public area.

Figure 3 below is a drawing from the front page of the Port of San Diego's website www.portofsandiego.org which depicts the new structures and park land of the Navy Broadway Complex (NBC) as an integral part of the North Embarcadero Visionary Plan's Economic Engine.

Figure 3.



The Port of San Diego again believes it is exempt from compiling a comprehensive plan for the North Embarcadero Visionary Plan area; and can ignore the life-threatening Seismic, Homeland Security, and parking issues related to the Navy Broadway Complex. Therefore, in their view the Port, the City of San Diego, and CCDC are not responsible for anyone being harmed or killed due to active faulting leading to surface fault rupture in the North Embarcadero area; or for the lack of a comprehensive parking management plan for all new structures.

The Port has promised us several times that the exact location of active faulting will be confirmed or denied, specifically during the upcoming Port Master Plan Amendment for the North Embarcadero. The Port of San Diego, the City of San Diego, and CCDC cannot be trusted to follow the simple wording and intent of State of California Seismic Safety laws that exist to protect taxpayers from catastrophic failure leading to injury, death, and destruction of public property due to made-up legal loopholes that do not exist.

According to State Seismic laws, all projects in Seismic Hazard Zones require written approval by local government agencies, with the approval letter and the required report sent to the California Geologist for incorporation into Alquist-Priolo Earthquake Fault Zone maps. Several new seismic reports exist that document newly found active faulting in the North Embarcadero area. However, the public safety reports have never been turned in to the State Geologist for incorporation into updated maps as required by law, or incorporated into the City's Seismic Safety Study (SSS).

The North Embarcadero Visionary Plan Phase I project consists of new public subsurface infrastructure including new water mains, sewer mains, and existing gas lines, storm drains, etc. Both the CCC and Port reports minimize the public safety hazards of surface rupture on public utilities due to active faulting, as follows:

"Flexible connections are not required when using PVC pipe. That is because PVC is inherently flexible. This inherent flexibility of the pipe material combined with manufacturer allowable joint deflection of up to 5 degrees provide the best possible mitigation for ground shaking. The Commission's geologist has reviewed the project and the environmental and technical reports associated with the development, and determined that while the geotechnical analysis performed for the project was neither extensive nor comprehensive with regards to hazard associated with surface fault rupture at the site, given the limited nature of the proposed improvements, in this particular case, the applicant's analysis can be found acceptable... Moreover, given the small building footprints, we agree with TerraCosta that the fault rupture hazard is negligible."

An online news article from the San Diego Union dated March 25, 2011 minimizes the potential for catastrophic failure of surface fault rupture on public utilities and states the following:
<http://web.signonsandiego.com/news/2011/mar/25/coastal-staff-endorses-embarcadero-improvements/>

“One issue raised by critics is the threat to the Embarcadero by possible earthquakes – an issue that has become all the more evident in the wake of the recent Japanese earthquake and tsunami. But the coastal staff brushed aside concerns, saying the public improvements would not pose serious hazards in a similar disaster.”

3.0 POLLUTION FROM BROKEN UTILTY MAINS AND PUBLIC INFRASTRUCTURE.

The City of San Diego has the worst public infrastructure of all coastal California planning jurisdictions and cities within the California Coastal Commission's authority. Newly constructed public utilities routinely break and have to be fixed on a semi-routine schedule. The same problems are fixed again and again, without analyzing the root cause of the differential movement on subsurface public utilities, and the easy, inexpensive design solutions.

The Revenue Review and Economic Competitiveness report *“Starting a New Path for Success”* dated December 1, 2010 states *“In July 2010, the State Water Quality Control Board (RWQCB) adopted a list of 1,700 waters failing to meet federal “Fishable, Swimmable, Drinkable” standards – 15 percent are in San Diego County. The largest source of this pollution is urban runoff: grease, oils, copper, pesticides/herbicides, pet waste, and litter.”* The report states that annually the City of San Diego subsidizes Storm Water Fees using \$31.2 million from the General Fund. *“Depending on what environmental mandates the City must ultimately meet from Federal and State regulators, future costs may become more than \$50 million per year.”*

San Diego is known for its massive amount of water main and sewer main pipe breaks leading to polluted urban runoff, which ultimately empties into San Diego Bay and the Pacific Ocean within the California Coastal Commission's jurisdiction. We are claiming that unlike the opinion of local government agencies and the Commission's geologist, active surface faulting on existing and future public subsurface utilities are currently seismic hazards which have not been acknowledge by local government agencies. Let alone mitigated for public safety and transportation. Examples of recent utility breaks and resulting transportation detours include the following:

- Saturday March 28, 2010. A water main break and sink hole on North Harbor Drive leading to the San Diego International Airport (SDIA), cause the road to be closed for eleven hours. Witnesses say hundreds of people ran down Harbor Drive trying to make their flights as the westbound lanes leading into Lindbergh Field were closed.
- Sunday October 17, 2010. Three water main breaks occurred in one day including a sink hole on West Broadway between India Street and Kettner Boulevard. The area was closed to traffic around 10 am after a 16-inch water main servicing the area broke. The block in front of the Santa Fe Depot also was closed. Because the downtown break involved a large water main, a hydraulic crew was called out.
- Saturday March 26, 2011 A water main broke on Commercial Street near 16th Street along the MTS Orange Line Trolley Tracks. Trolley Passenger had to be bused instead.

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SANGIS is the regional San Diego planning and Geographic Information source. Figures 4 and 5 are SANGIS maps showing the locations of known active faults in downtown San Diego in black, as they related Water Main breaks cause in part by the ongoing movement of the Rose Canyon Fault Zone. Only a portion of water main breaks and active Faults in downtown San Diego are shown on the SANGIS maps, as local agencies do not always give the Geographical Information to SANGIS for incorporation into regional planning maps. Therefore a complete history of water main breaks and active faulting in downtown has never been compiled for Planning.

According to SANGIS, no active surface rupture faulting exists within the North Embarcadero Area. However, as shown in red on Figure 4, at least four new active fault traces have been acknowledge by URS, the Port of San Diego, and/or the City of San Diego within the boundaries of the North Embarcadero Visionary Plan area.

Figure 5 shows the location of the active Spanish Blight fault on North Harbor Drive which is not recognized by the Port or City of San Diego. The map documents several water main breaks in the same area over the years due to active faulting on North Harbor Drive leading to the airport. Including the previously mentioned Saturday March 28, 2010 utility break and resulting sinkhole.



Figure 4 – Active faulting in red not acknowledged by SANGIS, the Port of San Diego, CCDC, and the City of San Diego in the NEVP Phase I area.



Figure 5 – SANGIS map showing active faulting and Water Main breaks in downtown San Diego.

Note: This map is incomplete because local government agencies have failed to document all water main breaks, and failed to give the new information to SANGIS.

In the staff report, the California Coastal Commission seems to acknowledge that multiple active faults may exist in the North Embarcadero Visionary Plan area, but no matter. The rationale for minimizing seismic issues is because new structures for human occupancy are not planned below known active faults. There are no big reasons to analyze and mitigate the negligible small seismic problem of active faulting traversing new underground public utilities, in this particular case. The Applicant has also stated that *"Existing City standard and requirements for the design and construction of sewer mains already account for seismic activity. For a sewer main of its size and material, the proposed sewer meets those standards and requirements. It should be noted that the City does have standard drawings that show flexible connections for sewer pipe at manholes. However, flexible connections are not required when using PVC pipe."* We disagree with the Ports assessment that the engineering design for subsurface public utilities in San Diego account for seismic activity due to surface fault rupture. No mitigation measure and normal engineering design for the underground utilities are planned to mitigate for differential movement due to surface rupture and ongoing creep. Multiple utility breaks in the same location over and over again, are the result of considering fault rupture hazards as a negligible issue for subsurface utilities.

Although SANGIS acknowledges the active fault on North Harbor Drive and the associated water main breaks, neither the Port, CCDC, or the City of San Diego acknowledges that active faults exist within the North Embarcadero Visionary Plan area or crosses Harbor Drive and West Broadway. The knowledge and irrefutable scientific evidence of active faulting is not coordinated in San Diego, with several local government agencies giving separate seismic advice, which is not consistent throughout the region.

Figure 6 is a photograph that documents Burtech Pipeline refixing a broken underground utility for the umpteenth time near the intersection of Harbor Drive and Pacific Highway on March 28, 2011.

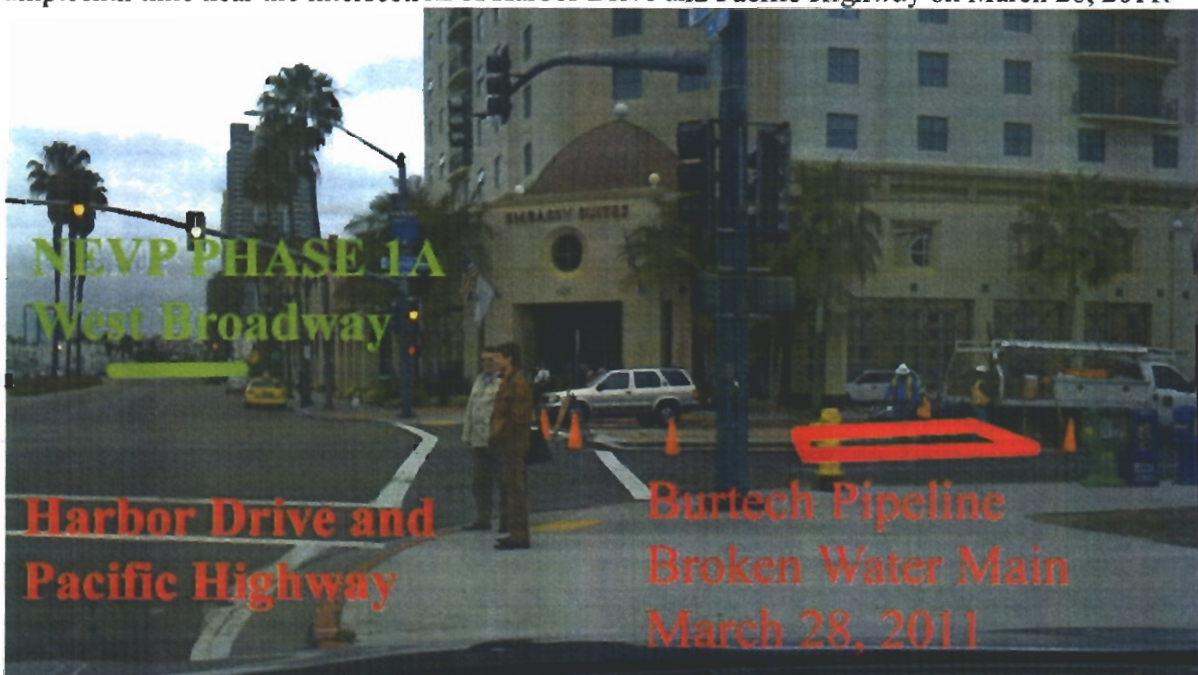


Figure 6 – Burtech Pipeline fixing a broken water main on Harbor Drive, on the east side of Pacific Highway.

In a 500 foot area along Harbor Drive within the Port's and California Coastal Commission's jurisdiction multiple subsurface public utility failures and associated traffic detours cost taxpayers untold millions in avoidable public utility breaks. The 500 foot area of newly installed public utilities along Harbor Drive is adjacent the CDP approved planned Ruocco Park and the Old Police Headquarters. The attached Appendix A include the latest wording taken from Senator Kehoe's Caltrans bill SB-468, initially supported by the California Coastal Commission, that should be applied to the NEVP area.

Appendix A

Updated draft language amended March 29, 2011 for Senate Bill SB-468 authored by State Senator Christine Kehoe, which should be applied to resolving the Seismic issues in the North Embarcadero Visionary Plan (NEVP) area during the upcoming Port Master Plan Amendment (PMPA).

Issues of broken public utilities created by the ongoing movement of the Rose Canyon Fault Zone (RCFZ) causing traffic jams, congestion, and detours, and the related run-off and pollution, should be analyze and mitigated in a comprehensive manner for the full San Diego County region, and specifically for this North Embarcadero Visionary Plan Phase I project.

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0451-0500/sb_468_bill_20110329_amended_sen_v98.html

"SECTION 1. Section 103 is added to the Streets and Highways Code, to read:

103. (a) The Legislature finds and declares all of the following:

*(1) The California coastal zone is a unique natural resource, the protection of which is recognized as a shared responsibility of the state, local governments, and regional entities. State, local, and regional agencies desiring to make investments in transportation infrastructure within the coastal zone have an affirmative obligation to ensure that investments do not compromise or diminish existing natural resources, including the coastal zone flora and fauna, **water quality**, and unique views.*

(2) The coastal zone is also a unique economic resource with both its natural and built environment being a destination for individuals, families, and groups to enjoy the diversity of recreational opportunities.

(3) Transportation investments to be made in the coastal zone should not erode the very qualities that make it an attractive setting in which to live, work, and recreate.

*(4) The transportation sector of the economy is the largest contributor of greenhouse gases in California. To meet the reduction goals for greenhouse gas emissions described in Assembly Bill 32 (Ch. 488, Stats. 2006) and the objectives of Senate Bill 375 (Ch. 728, Stats. 2008), several activities are necessary, including the reduction of vehicle miles traveled and enhancing the balance between where jobs are located and residential housing. To this end, the California Coastal Act of 1976 establishes the protection and enhancement of resources in the coastal zone as a priority, including the preservation of wetlands and viewsheds, **the mitigation of undesirable stormwater run off**, protection of unique flora and fauna, and other similar conditions. It is the intent of the Legislature to mitigate conflicts relative to regional mobility investments and require construction of mobility investments to demonstrate a reduction in total vehicle miles traveled, a reduction in congestion, improvement in the safety of the traveling public, improvement of air quality, the minimizing of impacts to the environment, the offering of multimodal options, and the support of jobs and housing balance within an identified transportation corridor."*

April 11, 2011

Ms. Diane Lilly, Coastal Planner
California Coastal Commission, San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4421

RECEIVED
APR 11 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: SOLUTIONS - North Embarcadero Visionary Plan Phase I. San Diego, California.

Dear California Coastal Commission:

The California Coastal Commission should make it clear that as part of the upcoming North Embarcadero Visionary Plan (NEVP) Port Master Plan Amendment (PMPA) it is imperative that the northern extension of the Rose Canyon Fault Zone be confirmed or denied as stated by Michael Kennedy of the California Geological Survey in 2006. Also all outstanding parking issues related to the missing 1,542 parking spaces for the Navy Broadway Complex (NBC) should be incorporated into the Circulation and Parking Management Plans and Scenarios.

Newly installed subsurface PVC pipes in public utilities in the North Embarcadero Visionary Plan area routinely break. The American Water Works Association (AWWA) Research Foundation recently put the life expectancy of PVC pipe at more than 110 years. In the NEVP area of San Diego, and along Harbor Drive, Pacific Highway, and West Broadway, public utility breaks on new PVC utility pipes happen within months or years of first installation. We believe the short lifespan of new PVC utilities on liquefiable soils within the Downtown Special Fault Zone, may be the result of ongoing movement along the active Coronado fault, and/or the lack of flexibility of PVC Piping on liquefiable soils. The exact location of all active faulting in the North Embarcadero Visionary Plan (NEVP) area has not been consolidated into one map for planning purposes. Therefore an analysis of utility break locations cannot be correlated to active fault locations in the NEVP area.

SOLUTIONS.

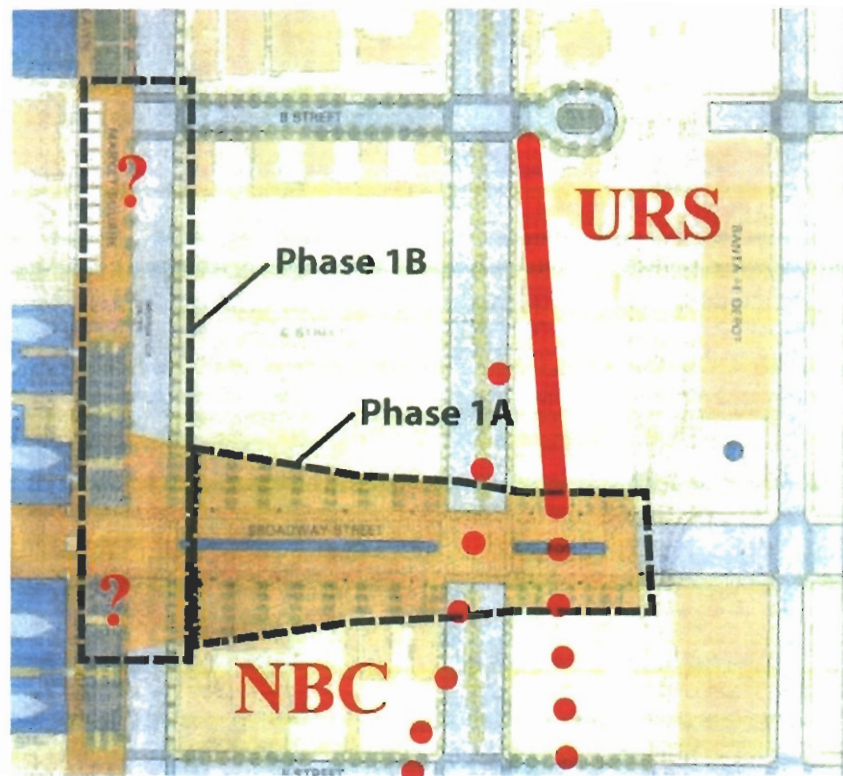
1. Map every active fault in the North Embarcadero Visionary Plan (NEVP) area on one consolidated map to be used by the Port, CCDC, the City of San Diego Seismic Safety Study, North Embarcadero Visionary Plan, SANGIS, the County of San Diego, the California Geological Society (CGS) Alquist-Priolo Earthquake Hazard map, and the USGS. Include the Navy Broadway Complex and County of San Diego land in the new comprehensive analysis.
2. Reconvene the 2006 Coronado Fault Tunnel Technical Advisory Panel (TAP) headed by Caltrans, with Berkeley and Caltech engineers, to provide guidance to the Port and City of San Diego, and confirm or deny the presence of active faulting in the North Embarcadero Visionary Plan (NEVP) area as part of the upcoming and ongoing Port Master Plan Amendment (PMPA).
3. Have the TAP make recommendations for subsurface utilities crossing active faults after analyzing HDPE Pipe versus PVC Pipe for areas of liquefaction.

In areas of incompetent soils prone to liquefaction, the American Water Works Association recommends recyclable, green flexible High-Density PolyEthylene [HDPE] pipe with fused joints, instead of PVC. In comparison to HDPE, PVC is rigid, more susceptible to surge shocks, joint seams can leak, contains chlorine, and produces Dioxin. The reconvened Caltrans TAP should analyze and provide recommendations to the Port and City.

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We agree that no active faulting in the NEVP Phase 1 area would be under proposed structures. Irrespective of structures, the exact location of all active faulting in the NEVP is required to be mapped, and the exact location of active faulting sent to the State Geologist for incorporation into an updated Alquist-Priolo map for the Point Loma Quadrangle.

On February 11, 2010, San Diego City Attorney Jan Goldsmith issued a Press Release regarding a whistleblower's lawsuit and false claims case against JM Eagle & Formosa Plastics for substandard PVC Pipes. *"Millions of dollars of substandard PVC pipe has been sold and installed in San Diego. We have to hold manufacturers who fail to meet their standards and UL obligations accountable."*



Regards,

Katheryn Rhodes and Conrad Hartsell MD,
371 San Fernando Street, San Diego, California 92106
619-523-4350 rhodes@laplayaheritage.com

Seismic vulnerability assessment and design of pipelines - Donald Ballantyne
Journal of the American Water Works Association, May, 2010. (PDF, 720K)

"Pipelines are vulnerable to earthquake shaking (ground motion) and **permanent ground deformation (PGD)** resulting from liquefaction landslide and fault movement.

Pipe performance during an earthquake depends on four parameters: **ruggedness, resistance to bending, joint flexibility, and joint restraint**. Pipe materials are rated in this article for each of these parameters to help utilities select the appropriate pipe for the job.

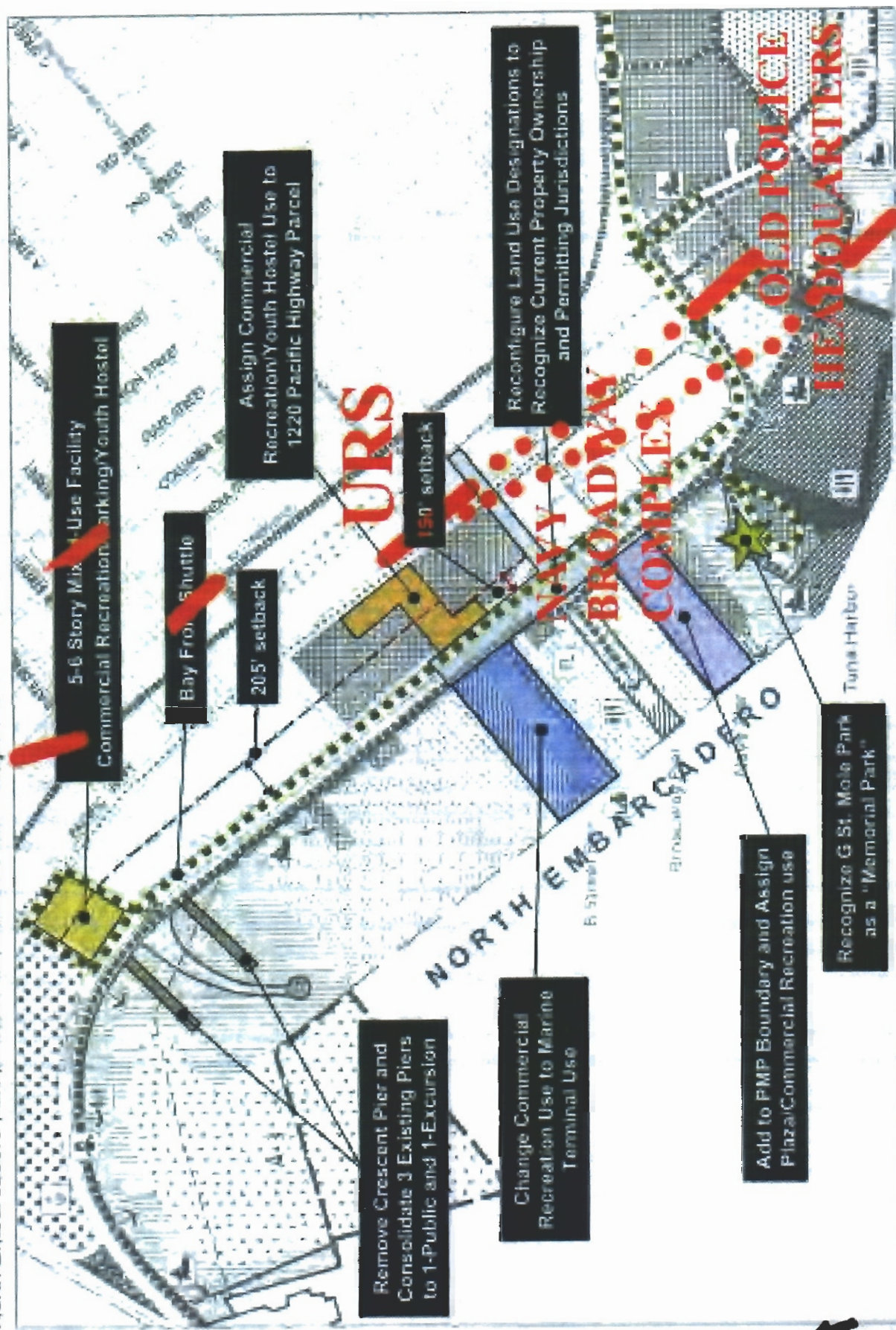
New pipelines installed in regions with high seismic activity should use continuous or restrained-joint pipe, including steel pipe with welded joints, **high-density polyethylene [HDPE] pipe with fused joints**, or ductile-iron pipe with restrained joints. These guidelines are applicable to pipelines installed in both competent soils (i.e., those capable of providing competent foundation performance) and soils subject to PGD.

Additional mitigation measures are recommended for critical pipelines. In regions with moderate seismic activity, pipe with segmented joints such as ductile iron and polyvinyl chloride [PVC], can be used in competent soils, **but in soils subject to PGD continuous or restrained-joint pipe similar to that used in areas of high seismicity should be used.**

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Figure 1 PRESUMED ACTIVE FAULTING IN RED NOT DEPICTED IN STATE ALQUIST-PRIOLO EARTHQUAKE HAZARDS MAPS

North Embarcadero Port Master Plan Location and Components





Unified Port
of San Diego

Wlba

Office of President / CEO

3165 Pacific Highway, San Diego, CA 92101
P.O. Box 120488, San Diego, CA 92112-0488
619.686.6201 • 619.686.6547 fax
www.portofsandiego.org

VIA E-MAIL AND U.S. MAIL

March 29, 2011

Sherilyn Sarb
Deputy Director
California Coastal Commission, San Diego Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

RE: Recommendation of Approval for North Embarcadero Visionary Plan (NEVP) Phase 1
Coastal Development Permit (SDUPD CDP #A-6-PSD-11-006)

Dear Ms. Sarb:

After nearly one year of public outreach, planning, and negotiations, the San Diego Unified Port District ("District") is pleased to return to the California Coastal Commission ("Commission") on April 13, 2011 for consideration of the revised NEVP Phase 1 project. We have received valuable input from the Commission and your staff, the Navy Broadway Complex Coalition, the Lane Field Developers, Unite HERE, and the general public. As a result, we now believe we have a better NEVP Phase 1 project which will improve public access to San Diego's waterfront.

District staff concurs with all of the recommendations of the Commission staff report and looks forward to working with your office to gain approval. We appreciate the time and attention your staff has dedicated to this project, from attendance at our public workshops in August 2010 to meeting with us in person to discuss proposed conditions of approval. We value the relationship we are forging during review of this project and we look forward to delivering on the promises we are making through the special conditions of approval.

As President/CEO of the District, I am personally committed to improving public process and ensuring transparency in government. Through the North Embarcadero Port Master Plan Amendment process currently underway, we will continue to engage the public to be sure that coastal access to San Diego Bay is preserved and enhanced.

Respectfully,

Signature on file

Wayne Darbeau
President/CEO

cc: Frank Alessi
Gary Bosse
Deborah Lee
Diana Lilly
Celia Brewer
Randa Coniglio
Darlene Nicandro
Linda Scott
Shaun D. Sumner

Letters from Applicants 53

SDUPD Docs No. 481120

San Diego Unified Port District



April 7, 2011

Sherilyn Sarb
Deputy Director
California Coastal Commission, San Diego Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

RE: Recommendation of Approval for North Embarcadero Visionary Plan (NEVP)
Phase 1 Coastal Development Permit (SDUPD CDP #A-6-PSD-11-006)

Dear Ms. Sarb:

Centre City Development Corporation (CCDC), which oversees downtown's redevelopment on behalf of the City of San Diego, has witnessed firsthand the benefits of using public dollars on important civic projects to attract private investment. The NEVP Phase 1 project will not only beautify downtown San Diego and its bayfront but it will also create more open space within the coastline, improve public access, and enhance San Diego Bay's water quality.

CCDC is proud to serve as partner with the Port of San Diego and the City on this project and has worked alongside these parties and your staff to address concerns of all the stakeholder groups. It is because of that hard work and collaboration that Phase 1 of the NEVP is better than originally conceived.

CCDC looks forward to working with the Port and your office to fulfill the promise of revitalizing and enhancing San Diego's "Front Porch."

Sincerely,

Signature on file

Kim Johnilkenny
Chairman

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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WIL 2

COUNCIL PRESIDENT PRO TEM KEVIN L. FAULCONER

SECOND DISTRICT
CITY OF SAN DIEGO

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

April 5, 2011


The Honorable Sara Wan
Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265

Dear Chair Wan:

As the City Councilmember representing Downtown San Diego, and as Chairman of the North Embarcadero Visionary Plan Joint Powers Authority, I strongly urge the California Coastal Commission to issue a Coastal Development Permit for the North Embarcadero Visionary Plan (NEVP) Phase 1 Coastal Access Features project. The Commission's approval is the final step toward a groundbreaking transformation of San Diego's waterfront.

Upon completion of NEVP Phase 1, the public will have unprecedented open coastal access to San Diego's working waterfront. Significant changes have been made to the project since it was last discussed by the Commission, including the addition of nearly two acres of open space. This important change was the culmination of additional public outreach and consultation with previous opponents, who now support the project.

I respectfully request the California Coastal Commission recognize the importance of NEVP Phase 1 to the region and the state. I appreciate your consideration in approving a Coastal Development Permit at your April Coastal Commission meeting.

Sincerely, / 

Signature on file

Kevin L. Faulconer
Council President Pro Tem
Second District

cc: Diana Lilly, Coastal Planner, San Diego Coast District
Gary Bosse, Assistant Vice President of Public Works, Centre City Development Corporation
Hon. Coastal Commission Commissioners

Letters of Support

SS



March 21, 2011

Chairwoman Sara Wan and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: North Embarcadero Visionary Plan – Phase 1 Visitor Serving and Coastal Access Improvements

Dear Chairwoman Wan and Commissioners:

On behalf of Seaport Village and Terramar Retail Centers, I am writing to express my support for the Port of San Diego's North Embarcadero Visionary Plan (NEVP) Phase 1 plan.

We have been a strong supporter of NEVP for quite some time because of the project's meaningful benefits for our region and all of California:

- Improved coastal access featuring additional public space for passive and active coastal recreation, including running, walking and bicycling paths along San Diego Bay, public art and civic plazas
- Enhanced no-cost and low-cost visitor serving features that will be enjoyed by tourists from California and around the world, as well as residents of the region
- Waterfront gathering place with a grand civic space for visitors and the local community
- Catalyst for an improved waterfront and tourism activity - enhancing economic benefit of tourism and related industries that are vital to our economy in San Diego and California
- North Embarcadero Visionary Plan has been vetted through extensive community input, and has been modified for the better because of that process.
- What you have before you now with Phase 1 is a plan that encourages tourists and residents alike to visit the waterfront with family and friends. This project will be an economic engine for all of San Diego, and finally provides the destination waterfront both protects and promotes this precious resource.

I encourage your support of the NEVP and your prompt action to move this project forward.

Sincerely,

Signature on file

Stephen M. Bowers
President and CEO

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MAR 29 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

W16a

Lane Field San Diego Developers, LLC

1250 Park Boulevard
San Diego, CA 92101
(619) 702-5655

April 6, 2011

Ms Diana Lilly
California Coastal Commission, San Diego District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92119

Re: North Embarcadero Visionary Plan - Phase 1 Improvements
Project Permit No. SDUPD CDP #A-6-PSD-11-006
Staff Recommendation: Approval with Conditions
Hearing Date: April 13, 2011; Item No. 16a

Dear Ms Lilly:

As you know, the North Embarcadero Visionary Plan (NEVP) is a multi-phased public improvement project designed to enhance San Diego's North Embarcadero. NEVP Phase 1 will create a destination waterfront gathering point offering improved coastal access and low-cost and no-cost visitor serving amenities.

The Coastal Development Permit (CDP) for NEVP Phase 1 was approved by the Port in July 2009. The CDP was subsequently appealed to the Coastal Commission by members of the public and two Coastal Commissioners. In April 2010, the Coastal Commission denied the permit on the grounds that the project as submitted lacked sufficient open space and was, therefore, inconsistent with the Port Master Plan.

Since the Coastal Commission's denial in April 2010, the applicant has worked closely with the NEVP Phase 1 appellants to resolve their concerns. Additionally, through a public outreach program administered by the Port, the applicant has provided significant opportunity for public input regarding the NEVP Phase 1 design and worked with Coastal staff to increase public open space.

Further, in a continuing effort to improve the NEVP Phase 1 project and at the Port's request, Lane Field San Diego Developers (LFSDD) has worked with the Port and the San Diego Navy Broadway Complex Coalition (Coalition) to provide a new, 150' deep public park/plaza fronting the east side of North Harbor Drive between West Broadway and (eventually) the southern boundary of B Street. This collaboration was memorialized in a tri-party Memorandum of Understanding (MOU) dated October 1, 2010; its result: the addition of approximately two acres of public open space to the Project.

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Ms Diana Lilly

North Embarcadero Visionary Plan - Phase 1 Improvements

April 6, 2011

Page 2 of 4

On Tuesday, January 11, 2011 the Port issued a new CDP for the Project. This modified and enhanced CDP was divided into three distinct sub-phases: (i) West Broadway (roadway improvements), (ii) North Harbor Drive (public park/plaza, pedestrian paths, public art, and relocation of North Harbor Drive to the east), and (iii) Lane Field Setback Park/Plaza as described above. Upon issuance, this new permit was appealed to the Coastal Commission by three members of the public and two Coastal Commissioners.

Coastal staff has reviewed the recently filed appeals and addressed their claims together with necessary mitigation measures in its staff report to the Commission. In doing so, Coastal staff has recommended modifying the project to include a fourth phase - the Broadway Pier - which will include an additional 1.25 acres of public space along the waterfront. This phase was deliberately omitted from the Port issued CDP because of significant disparity of opinion as to the use of the Pier between the Port and the Coalition as evidenced by the fact that litigation between the parties existed at that time. That litigation caused Recital F to be included in the MOU. Recital F states in part: "This MOU is applicable only to the NEVP Phase 1 project, and in no way affects (1) the Coalition's rights and claims in the civil proceeding known as *San Diego Navy Broadway Complex Coalition v. San Diego Unified Port District, et al.*, San Diego County Superior Court case no. 37-2009-00096726-CU-MC CTL or (2) the Coalition's rights and claims relating in any way to the USS Midway 'Museum, the Navy Pier, or the Broadway Pier."

At this time, both parties have informally indicated that beyond the outcome of the litigation, they are accepting of Commission staff's recommendations regarding the Broadway Pier and will address any issues not otherwise resolved via the litigation or this CDP through the PMPA process that has already begun; its purpose being to codify the Port's overall approach to the North Embarcadero and incorporate the results into the Port's Master Plan. To ensure that no conflicts arise between the judicial ruling that will issue from resolution of the litigation and the Commission's actions regarding this CDP, the Coalition has suggested that the following paragraph be added to the recommendations provided in their report by Coastal staff: "The Commission's decision on Appeal no. A-6-PSD-11-006 does not consider or address and is not intended to in any way affect any of the claims, defenses, or other issues raised in the civil proceeding known as *San Diego Navy Broadway Complex Coalition v. San Diego Unified Port District et al.*, San Diego County Superior Court case no. 37-2009-00096726-CU-MC-CTL (Honorable Luis R. Vargas presiding; filed August 21, 2009)." The Port has indicated it is amenable to the proposed language shown above.

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Ms Diana Lilly

North Embarcadero Visionary Plan - Phase 1 Improvements

April 6, 2011

Page 3 of 4

The Lane Field park/plaza will be conducive to both passive and active coastal recreation and will be designed in conjunction with an extensive public outreach program for the entire Lane Field project; the outreach program (Program) will be conducted by the developer with Port participation to assure that all public comments and concerns are addressed before the design is finalized. The Program will cumulate either with the filing of an Amendment to the existing Coastal Development Permit for Lane Field or the Port may be asked to issue a new Coastal Development Permit for the Lane Field project if circumstances warrant.

Collectively, NEVP Phase 1 will result in a significant destination and waterfront gathering point that will provide cohesive yet flexible public open space for waterfront visitors. The public space will include a mix of hardscape and landscape, with areas for passive recreational activities. Realignment of North Harbor Drive will accommodate maritime operations, waterfront visitors, a contiguous 105-foot wide linear esplanade along the water's edge; provisions within the Project's design address and rectify current water quality issues dealing with runoff flowing into San Diego Bay over the existing bulkhead. The Project will create a grand civic gathering place for the local community and San Diego visitors that can be managed for large gatherings, events, and festivals for locals and visitors alike.

The California Coastal Act protects coastal access, supports removal of barriers to access, and encourages waterfront recreation and low-cost visitor serving amenities. Today, the area within the Project boundaries includes blight, decay, auto-centric roadways, and both uneven and uninviting sidewalks that collectively create real and perceived barriers to access and enjoyment of the waterfront. NEVP Phase 1 is a public project that reflects and embraces the precepts of the Coastal Act. The Project eliminates the blight, fixes the problems enumerated above, enhances the quality of runoff entering San Diego Bay and provides significantly more public open space than the project previously before the Coastal Commission.

Subject to the addition of the language described in the last paragraph found on page 3 of this letter, Lane Field San Diego Developers fully and unequivocally support the NEVP Phase 1 project and suggest that the Commission's support of Coastal staff's recommended special conditions is fully warranted. We stand ready to assist and/or participate in moving this project forward upon issuance of the subject CDP.

Signature page follows:

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Ms Diana Lilly
North Embarcadero Visionary Plan - Phase 1 Improvements
April 6, 2011
Page 4 of 4

Very truly yours,

LANE FIELD SAN DIEGO DEVELOPERS, LLC

Signature on file *Signature on file*

Jelone M. Prammer, Project Executive

Cc:	Sherilyn Sarb	California Coastal Commission
	Deborah Lee	"
	Lee McEachern	"
	Celia Brewer	Unified Port District of San Diego
	Shaun Sumner	"
	Cory Briggs	San Diego Navy Broadway Complex Coalition
	Ian Trowbridge	"
	Craig Clark	Lane Field San Diego Developers, LLC
	Sam Hardage	"
	Rob Lankford	"
	Larry Kimball	"
	Ron Nehring	"
	Eric Smith	"

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W16a

Affiliated with...

San Diego and Imperial Counties
Labor Council
State Federation of Labor
State Culinary Alliance
Union Label & Service Trades Council

April 8, 2011

By Email and Fax

Chairperson Sara Wan
and Honorable Commissioners
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105

Re: North Embarcadero Visionary Plan Phase I – Item W16a (Appeal No. A-6-PSD-11-006)

Dear Chairperson Wan and Honorable Commissioners:

I am writing on behalf of our organization's over 4,500 members in San Diego's hotel, hospitality and food service industries to express our support for the revised Phase I of the North Embarcadero Visionary Plan ("Project"). Based on the San Diego Unified Port District's revisions to the coastal development permit, and the additional conditions required by Coastal Commission staff to assure that public access and recreational opportunities are consistent with the vision articulated in the Port Master Plan ("PMP"), we urge the Commission to approve the Project pursuant to the staff recommendation.

The future of San Diego's North Embarcadero is extremely important to hotel workers. Many Local 30 members live, work, and recreate along the waterfront downtown and have an interest in avoiding the impacts of environmentally detrimental and poorly planned projects.

Further, we believe that new development proposed in the coastal zone should be both economically *and* environmentally sustainable. This means that new projects should create jobs that pay living wages, create more opportunities for public access and be developed to protect and enhance our coastal resources. The revised Project is consistent with these values.

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Letter of Support

April 8, 2011

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As you are aware, a previous version of Phase I of the NEVP was denied by the Commission in April, 2010 based primarily on a failure to provide adequate open space as required by the PMP. Over the past year, the Port has worked with former Phase I appellants, the Navy Broadway Complex Coalition ("NBCC"), of which UNITE HERE is a member organization, the Lane Field Developers and CCC staff to respond to these concerns. The result of this rare collaboration, and of several additional public outreach meetings, is a project that provides the open space and quality public amenities required by the PMP, and the parking and public transportation necessary for the space to be enjoyed.

The revised Project includes an expanded five-acre park system, implementation of an enhanced public shuttle, a detailed parking plan which mitigates lost spaces, aggressive milestones and other special conditions to assure the public access and recreational space will be of an equal amount and quality to that required by the PMP. Additionally, Coastal Commission staff has ensured that the integrity of the long-term planning process will be preserved by requiring specific aspects of this Project be reviewed and approved as part of a larger master plan amendment, subject to a final hearing before this Commission.

For example, the Broadway Pier is a critical element of the NEVP that is conditioned by Commission staff but also subject to additional review via the PMP Amendment process and pending litigation. To assure that the Broadway Pier public use plan incorporated in special condition #2 does not prejudice a judge's ability to require additional public access to the Pier, the Port and the NBCC have agreed to request that the Commission incorporate the following language into the coastal development permit findings:

In acting on this appeal, the Commission is not ruling on the merits of any of the claims, defenses, or other issues raised in the civil proceeding known as San Diego Navy Broadway Complex Coalition v. San Diego Unified Port District et al., San Diego County Superior Court case no. 37-2009-00096726-CU-MC-CTL (Honorable Luis R. Vargas presiding; filed August 21, 2009)."

Special condition #2 and the language above protect the public's right to access Broadway Pier as intended under the PMP, while allowing increased access to be provided in the future through legal proceedings and the master planning process.

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April 8, 2011

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Over the past year, the Port of San Diego, Coastal Commission staff, the NBCC, UNITE HERE, the Lane Field Developers, the City of San Diego and other public stakeholders have worked together to create an economically and environmentally sound North Embarcadero waterfront. In contrast, our South Embarcadero is largely walled-off by massive buildings, many of which are occupied by companies that pay poverty wages without affordable healthcare. The revised Phase I project marks a significant cooperative effort to not repeat the same mistakes and achieves the vision of a world-class waterfront outlined in our coastal plans.

In conclusion, we urge the CCC to approve the revised coastal development permit for Phase I of the NEVP pursuant to the staff recommendation. Thank you for your consideration.

Sincerely,

Signature on file

Brigette Browning
President
UNITE HERE, Local 30

cc: Diana Lilly
Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92105-4421

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**UnionYes**Lorena Gonzalez
*Secretary-Treasurer/CEO*Mickey Kasparian
President

W162 San Diego and Imperial Counties Labor Council

Item 16A

April 8, 2011

VIA FACSIMILE

Sara Wan, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
FAX: (415) 904-5400

RECEIVED

APR 08 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: Appeal No. A-6-PSD-11-6 (CCDC & San Diego Unified Port District, San Diego)
Wednesday, April 13 – Item 16a

Dear Chairwoman Wan and Commissioners:

I am writing on behalf of the 192,000 working families of the San Diego and Imperial Counties Labor Council to express our support for the revised Phase I of the North Embarcadero Visionary Plan ("NEVP").

The NEVP is an important public improvement project that increases public access to our downtown waterfront and facilitates the creation of good, sustainable-wage jobs with affordable healthcare.

Since the vote to deny the permit last year, we have worked with the Port of San Diego, the Lane Field Developers and the Navy Broadway Complex Coalition to resolve the Commission's concerns and assure that the Project is consistent with Port Master Plan and the California Coastal Act.

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4/8/2011
Page 2

The revised Phase I project increases public access to our shoreline by providing additional open space, an integrated shuttle system, ongoing monitoring and a process to incorporate future public input.

The enhanced park system and public amenities will increase economic activity downtown and assure that our waterfront is open and accessible to everyone in California.

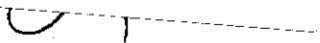
We are pleased to have been part of this collaborative effort and are proud to stand behind a project that helps rebuild the middle class in San Diego and enhances our coastal resources.

In difficult economic times, we are lucky to have a project that is funded and ready to move forward. We urge the Commission to approve the coastal development permit pursuant to the staff recommendation.

Thank you for your consideration.

Sincerely,


Signature on file


Lorena Gonzalez
Secretary-Treasurer/CEO

CC:

Councilwoman Esther Sanchez, Commissioner, San Diego Coast, FAX: (760) 435-3045

Peter Douglas, Executive Director, FAX: (415) 904-5400

Deborah Lee, San Diego Coast District Manager, FAX: (619) 767-2370

Board of Port Commissioners, Port of San Diego, FAX: (619) 686-6547

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BRIGGS LAW CORPORATION

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San Diego, CA 92110

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Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

Please respond to: Inland Empire Office

BLC File(s): 1434.07

11 April 2011

Peter M. Douglas, Executive Director
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Appeal and Coastal Development Permit no. A-6-PSD-11-6 (North
Embarcadero Visionary Plan Phase 1 Revisions; April 13, 2011)

Dear Mr. Douglas:

On behalf of the San Diego Navy Broadway Complex Coalition, I am writing to convey my client's support for the staff recommendation as modified by today's addendum materials to the Commissioners for the above-referenced appeal and coastal development permit. While my client was unable to support the original staff recommendation, the addendum incorporates important clarifications and thus my client is now pleased to be supporting the modified recommendation.

The history of the North Embarcadero Visionary Plan is thoroughly documented in the Commission's record. To understand the reasons for my client's support of the modified staff recommendation, however, it is helpful to consider what has transpired over the last two years.

In 2009, the Port issued itself an appealable coastal development permit for NEVP Phase 1 to allow for certain infrastructure improvements at the foot of Broadway Pier, at the intersection of North Harbor Drive and Broadway in downtown San Diego. That permit was inconsistent with the Port Master Plan and the NEVP (the provisions of which were incorporated into the PMP for the North Embarcadero planning district) because, among other things, it eliminated a substantial amount of public space in the form of a large oval park/plaza at the foot of the Pier, as depicted on Figure 11 of the PMP. The Coalition opposed the permit and supported its appeal before the Commission. Last April, the permit was rejected by the Commission, thus forcing the Port to reconsider how to implement its desired infrastructure improvements while achieving the PMP's goal of providing high-quality public space at the foot of Broadway Pier.



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The unsuccessful coastal development permit was intended to facilitate vehicle access to the new cruise ship terminal that the Port approved for Broadway Pier in June 2007 and began constructing in August 2009. Shortly after the ground-breaking ceremony, the Coalition filed suit to challenge the legality of the new terminal. The evidence indicated that the Port was planning to build a terminal substantially different from, serving uses substantially more intense than, and providing public access substantially less than what was disclosed to the public when the terminal's own coastal development permit was approved. (The lawsuit went to trial last month, after which the judge took the matter under submission; no final ruling has been issued so far.)

After the Commission's rejection of the Phase 1 permit last year, the Coalition began working with the Port and the Lane Field developer to achieve a compromise that would provide substantial public space near the intersection of North Harbor Drive and Broadway while also allowing necessary infrastructure improvements to proceed. Those efforts resulted in a Memorandum of Understanding between the three parties that (i) called for a 150-foot Setback Park on the Lane Field site (the hotels will be reconfigured to allow for the Setback Park); (ii) obligated the Port to consider a 205-foot Setback Park north of Lane Field all the way up to Hawthorn Street (one site option being east of North Harbor Drive as currently aligned, another being west of an eastwardly re-aligned North Harbor Drive) as part of NEVP Phase 2; and (iii) preserved the Coalition's claims over Broadway Pier's new terminal so that they would be decided in court.¹

As you can see, the compromise achieved by the Coalition, the Port, and the Lane Field developer represents a major improvement over the proposal before the Commission last year. Most notably, the 150-foot Setback Park is an important first step toward creating a world-class waterfront destination open to everyone. The tremendous momentum toward that goal will continue with the Port's consideration of the 205-foot Setback Park up to Hawthorn Street as part of Phase 2. Each of these constitutes a significant public benefit.

In this regard, the Coalition wishes to point out that the negotiations over the last year seem to have produced another benefit, albeit intangible, for the North Embarcadero and for the public generally. After its defeat before the Commission last April, the Port leadership took time to reflect on the organization's track record and reputation as the lead agency for development of the North Embarcadero. To their credit, they decided that it was again time to listen to the public, as they did more than a decade ago when they first approved the NEVP, and to manage the North Embarcadero as the public resource it truly is. It does not appear, however, that this was a strategic decision simply to obtain support for NEVP Phase 1. While there will always be room for improvement, by all indications the Port staff and leadership working on NEVP have reinvented themselves and are committed to developing the waterfront as a public good on the whole rather than as a piecemeal development for

¹ The clarification that the Coalition requested for this appeal's original staff report makes it clear that the Commission is not reaching the merits of any of the claims raised in the lawsuit (especially since the Coalition is not a party to this appeal and is not presenting evidence in support of its claims over the terminal).

private interests. Had it not been for this new ethos at the Port, the Coalition would have had no confidence in the Port's promise to complete the entirety of the 150-foot Setback Park (*i.e.*, including the portion on 1220 Pacific Highway controlled by the Navy) and giving a very serious look to the 205-foot Setback Park to the north--both of which will take place in the future. Compared to the Port prior to April 2010, *this* Port's word does appear to be worth more than the paper it's printed on. And that, of course, is to everyone's benefit.

For these reasons, the Coalition is delighted to be supporting issuance of Coastal Development Permit no. A-6-PSD-11-6 for the revised NEVP Phase 1 based on the staff recommendations as clarified in today's addendum. In doing so, the Coalition wishes to thank the Commission's San Diego staff for their hard work and accessibility to the parties throughout the process.

Sincerely,

BRIGGS LAW CORPORATION

Signature on file

Cory J. Briggs



W/ka

THE PUBLIC TRUST ALLIANCE

A project of the Resource Renewal Institute

187 East Blithedale Ave.
Mill Valley, CA 94941

April 7, 2011

Comments RE Appealed Coastal Development Permit for North Embarcadero Phase I

San Diego District

Attn.: California Coastal Commissioners,

The proposed Coastal Development Permit for Phase I of San Diego's North Embarcadero should be denied because it is fundamentally inconsistent with the existing Local Coastal Plan and is linked with an anticipated pattern of development which threatens public safety and will place public assets and resources at unacceptable risk. The proposed strategy of issuing this permit and leaving resolution of substantial public issues to subsequent environmental review is profoundly flawed. The Appeal in question refers to seismic hazards and supplementary materials describe how local agencies and courts have erroneously handled scientific evidence and implications for public safety. After reading materials submitted by Katheryn Rhodes, the California Public can have no confidence that the presently involved agencies will protect their legal interests.

The project proponents may refer to the importance of starting construction as soon as possible, but a Port development strategy based on pyramid scheme principles is simply not acceptable. A Cruise Ship Terminal that the proposed client never wanted was financed with public money and now blocks a heritage viewshed. Multiple public values inherent in the existing Coastal Development Plan are compromised without mitigation and the proposed Amendment process gives no indication that important public concerns will be addressed. The planning, evaluation and financing of these Port developments are riddled with conflicts of interest and public concern has been greeted mainly by denials and invocations to "trust us." It is now time for the California Coastal Commission to deny a permit which is fundamentally inconsistent with the legal standard established by California Law to protect the public interest. The Commission acted appropriately on this matter a year ago and the Port has failed to produce a more compelling case this year. Perhaps if the implicated public trust concerns can't be appreciated, public safety and homeland security issues might serve alone to shape a responsible decision.

Sincerely,

Michael Warburton
Executive Director

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A6-PSD-11-6
Letter of Opposition

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

**W16a**

Filed: July 10, 2009
49th Day: Waived
Staff: D. Lilly-SD
Staff Report: March 23, 2011
Hearing Date: April 13-14, 2011

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: San Diego Unified Port District

DECISION: Approval with Conditions

APPEAL NO.: A-6-PSD-11-006

APPLICANT: San Diego Unified Port District

PROJECT DESCRIPTION: Realign North Harbor Drive from the B Street Pier to south of the Broadway Pier eastward, construct 105 foot wide esplanade; public plaza at the foot of West Broadway; gardens; shade pavilions; ticket kiosks; information building; walk-up café; restroom; median improvements on West Broadway between North Harbor Drive and Pacific Highway; and restriping to provide an additional turn lane to the Grape Street and North Harbor Drive intersection. Construct public park/plaza in 150-foot setback from Harbor Drive on Lane Field.

PROJECT LOCATION: North Harbor Drive, from the B Street Pier to south of Broadway Pier; Grape Street and North Harbor Drive intersection; Lane Field at West Broadway and North Harbor Drive; San Diego (San Diego County)

APPELLANTS: Commissioners Sanchez and Shallenberger; Katheryn Rhodes & Conrad Hartsell; Scott Andrews.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

Staff also recommends that the Commission APPROVE the de novo permit with special conditions.

The subject project is a resubmittal of a revised project for Phase I of the North Embarcadero Visionary Plan (NEVP) project. On April 14, 2010, the Commission denied, on appeal, a port-approved permit for Phase I of NEVP, due to potential adverse impacts to land use, public access, and public recreation. Since that time, the project has

been revised and expanded to include construction of a public park/plaza in an approximately 150-foot wide setback from Harbor Drive on Lane Field. All other physical aspects of the project are the same; however, various changes and additions have also been made to the public access plan and other requirements, including a commitment to develop a waterfront shuttle and to identify and develop an additional 1.25 acres of waterfront park in the future, have been incorporated into the project.

The primary issues raised by the subject development are the project's inconsistency with the requirement of the certified Port Master Plan (PMP) that an expansive park/plaza be developed along North Harbor Drive at the foot of Broadway. The proposed project involves public access improvements, but the nature and usefulness of the proposed improvements are both substantially different and, as proposed, not equivalent to those called for in the certified PMP.

The North Embarcadero Visionary Plan PMP Amendment was approved in 2001 and outlines a program of public access improvements along Harbor Drive including developing a wide esplanade alongside the shoreline, landscaping and streetscaping improvements, and passive green spaces. Most relevant to the subject project, the plan includes the narrowing and curving of Harbor Drive to accommodate a major 2.5 acre park/plaza at the foot of Broadway.

The proposed project eliminates both the curve in Harbor Drive and the oval-shaped park/plaza next to the Broadway Pier. Instead, Broadway would terminate at a rectangular plaza/pier entrance, with the esplanade continuing on both sides. The plaza will also function as a driveway to the recently approved auxiliary cruise ship terminal. An approximately 1.66 acre linear public "Setback Park/Plaza" would be developed along the inland side of Harbor Drive, on the parcel located on the northeast corner of Harbor Drive and Broadway, known as the Lane Field site. The Commission has approved a permit for construction of a hotel on this site, which would have to be amended in order to accommodate construction of this park. The project also includes a requirement that at some point in the future, an additional 1.25 acres of waterfront park be constructed. However, there is no specific timetable for this to occur.

The proposed Setback Park would be smaller than the oval park, and would not be on the waterfront. The linear configuration would be less amenable to large gatherings and events, and would not have the visual prominence or significance that a location at the foot of Broadway would have. The requirement to build an additional 1.25 acres of waterfront park (approximately 50% of the size of the oval park in the certified plan), is an important addition to the project. However, as proposed, the Commission has no assurance that this additional waterfront public park space will materialize, because there are no timelines or deadlines associated with the requirement. In addition to these park/plaza and road revisions that are inconsistent with the PMP, the proposed project involves construction of a promenade that is significantly different than Figure 5.3 of the NEVP, which is incorporated by reference into the PMP. Thus, the project raises a substantial issue regarding conformance with the certified PMP and the public access policies of the Coastal Act.

Nevertheless, the proposed project is a public access project which will improve pedestrian access and visual quality along the waterfront. Therefore, in coordination with Port staff, Commission staff have developed a set of conditions that will require additional waterfront public open space be provided in the North Embarcadero area. When combined with additional requirements for public access and recreational improvements for the existing and proposed surrounding public improvements—specifically, the Lane Field Setback Park, Harbor Drive Promenade, and Broadway Pier—overall, the amount of parkland provided would replace the planned oval park in approximate 1) size; 2) function; and 3) prominence (i.e., a destination and focal point for the waterfront).

Special Condition #1 requires compliance with a “Waterfront & Lane Field Destination Park Plan” (see Attachment A). This detailed plan has been developed by Commission staff to ensure, to the greatest extent feasible, that in addition to the Lane Field Setback Park/Plaza, Phase 1E, a new waterfront park no less than 1.25 acres in size (that is, one-half the size of the 2.5 acre oval park/plaza shown in the certified PMP) will be designed and constructed. The Waterfront Park need not necessarily be entirely contiguous (i.e., the park space could be divided into more than one area), but the majority of it must be one contiguous space, such that it forms a significant destination and gathering point.

Development of a new park will require environmental analysis, public outreach and discretionary approvals, including a Port Master Plan Amendment. Funding must also be identified and obtained. Thus, a particular site and design has not been determined at this point. However, the Park Plan establishes very specific, mandatory parameters for the size, nature, and function of the park and the potential locations which must be analyzed. The plan also includes milestones and deadlines for review and construction of the project that ensure this additional public space will be constructed within three years of commencement of construction of the subject Harbor Drive or West Broadway improvements.

Because the proposed project will result in a different development than shown in the certified PMP, a Port Master Plan Amendment must still be obtained. The Waterfront and Lane Field Park Plan requires that the future PMPA address all of the relevant issues around adding new public park space, in a comprehensive manner. For example, the PMPA for the Waterfront Park must include clarifying and/or revising the land use category “Park/Plaza” to differentiate between grassy “park” and hardscape “plaza,” and converting Navy Pier into a park. The Plan requires that the EIR and PMPA for the Waterfront Park be brought to the Commission for review no later than two years after Commission action on the subject public access improvements permit.

Special Conditions also require implementation of a Parking Management & Transit Opportunity Plan to address the impact of the removal of 146 waterside parking spaces. The Port has suggested that the demand for all 146 parking spaces can be absorbed in existing parking lots in the vicinity of the North Embarcadero area. Therefore, the Parking Management & Transit Opportunity Plan requires that comparable alternative

parking spaces that are currently not in demand be identified prior to the removal of any of the existing 146 parking spaces, and that these replacement spaces not be removed until a Circulator Shuttle is implemented. The North Embarcadero Circulator Shuttle is a proposal the Port has been exploring for several years to help move visitors and residents around the North Embarcadero region. Given that the proposed project would remove 146 prime waterfront parking spaces, the Plan requires that the Shuttle program begin operations upon the re-opening of Harbor Drive after the subject improvements are complete.

Other conditions require a Broadway Pier Design Principles and Programming Plan that requires public access and recreation improvements on Broadway Pier, and a revised public access program that ensures pedestrian access will be protected and promoted at Broadway Pier and the Lane Field Setback Park/Plaza, even when cruise ships are docked. Special conditions also prohibit the use of invasive plants for the proposed landscape improvements, protect the C Street View Corridor, require the Port District to make a good-faith effort to acquire that portion of property within the 150-foot setback on the Navy's leasehold at 1220 Pacific Highway to incorporate it into the Setback Park/Plaza, and require the Port District to assume liability for any attorneys fees or court costs incurred by the Commission as the result of the approval or issuance of this permit.

Standard of Review: Certified Port Master Plan; public access and recreation policies of the Coastal Act

SUBSTANTIVE FILE DOCUMENTS: Appeal by Commissioners Sanchez and Shallenberger filed 2/01/11; Appeal by Kathryn Rhodes & Conrad Hartsell filed 1/24/11; Appeal by Scott Andrews filed 2/1/11; Port Draft Coastal Development Permit 2011-09; Certified San Diego Unified Port District Port Master Plan.

I. Appellants Contend That: The project, as approved by the Port, is inconsistent with the certified PMP with respect to the protection of public access, public recreation, visual quality and geologic stability.

II. Local Government Action. The coastal development permit was approved by the Board of Port Commissioners on January 11, 2011. The permit contains special conditions addressing development of the Lane Field Setback Park/Plaza, the future development of 1.25 acres of waterfront park, parking, views, water quality and conservation, pedestrian access across the proposed plaza, signage, noise, and other measures.

III. Appeal Procedures. After certification of a Port Master Plan (PMP), the Coastal Act provides for limited appeals to the Coastal Commission of certain port governing body's actions on coastal development permit applications. The types of appealable projects are outlined in Section 30715 of the Coastal Act.

After the port governing body has taken final action on an appealable project, it must send a notice of that approval to the Commission. Cal. Pub. Res. Code § 30717; 14 C.C.R. § 13641. This notice must indicate how the approved project is "consistent with the certified port master plan and the California Coastal Act." 14 C.C.R. § 13641(a); Cal. Pub. Res. Code § 30717. Upon proper receipt of a valid notice of appealable development, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30717; 14 C.C.R. § 13641(b). If an appeal is filed during the appeal period, the effectiveness of the port governing body's approval of the CDP is suspended until the Commission takes final action on the appeal. 14 C.C.R. § 13641(c). The Commission will process the appeal in the same manner that it processes appeals from local government actions approving CDPs. *Id.*

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission may proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date.

If the staff recommends "no substantial issue," or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If a substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Port Master Plan and the Chapter 3 policies of the Coastal Act.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

IV. Staff Recommendation on Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-PSD-11-006 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. *A-6-PSD-11-006* presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The subject project is a resubmittal of a permit previously appealed to the Commission. On April 14, 2010, the Commission denied, on appeal, a port-approved permit for Phase I of the North Embarcadero Visionary Plan (NEVP) Coastal Access Features project, due to potential adverse impacts to land use, public access, and public recreation (CDP #A-6-PSD-09-43). Since then, the project has been revised and expanded to include construction of a public park/plaza in an approximately 150-foot wide setback from Harbor Drive on Lane Field (Phase 1D), as described below in detail. All other physical aspects of the project are the same; however, various changes and additions have also been made to the public access plan and other requirements, including a commitment to develop a waterfront shuttle and to identify and develop an additional 1.25 acres of waterfront park in the future. On January 11, 2011, the Port approved a coastal development permit for the revised project.

For descriptive purposes, the project has been divided into four phases.

Phase 1A: West Broadway

This Phase would improve the existing West Broadway Street from North Harbor Drive east to the railroad tracks located between Pacific Highway and Kettner (see Exhibit #4). The existing high point of the street would be lowered, a raised landscape median would be installed, and signalization, striping, utilities, and lighting would be installed.

Phase 1B: North Harbor Drive

Phase 1B would realign North Harbor Drive generally from the B Street Pier to south of the Broadway Pier, eastward of its present location, and transition to existing alignments at Ash Street and F Street (see Exhibit #4). The realigned road would enable construction of an approximately 105 foot wide esplanade starting at the south side of B Street Pier to the south of Broadway Pier. The esplanade would include a continuous bayfront promenade for pedestrians and bicyclists, a storm water treatment system, a running/walking path, improved landscaping and structural architecture, and a public plaza at the foot of West Broadway flanked by formal gardens. Two open shade pavilions, approximately 80 feet long, 70 feet wide, and 18 feet high, would be constructed on the eastern portion of the esplanade, under which replacement ticket kiosks, an approximately 672 sq.ft., 16-foot high information building, and an approximately 315 sq.ft., 16-foot high walk-up café would be constructed. The replacement ticket kiosks would be located in a new 12-foot high, approximately 253 sq.ft. building.

An approximately 720 sq.ft., 12-foot high restroom would be constructed on the eastern portion of the esplanade, along the southern edge of the future C Street alignment. The project would also provide median and storm water improvements along West Broadway between North Harbor Drive and Pacific Highway. In addition, restriping to provide an additional turn lane to the Grape Street and North Harbor Drive intersection would occur.

In order to create commercial loading and unloading zones for the recently approved Broadway Pier cruise ship terminal, the project would eliminate 170 existing public parking spaces along Harbor Drive, to be replaced with 24 parallel parking spaces, with the possibility of increasing those spaces to a total of 58 diagonal parking spaces at an unspecified future date.

The size of the plaza at the foot of Broadway would be approximately 16,000 sq.ft., in line with the esplanade that would continue on both sides. Removable bollards would be located on the north and south sides of the plaza to prevent pedestrians from entering the plaza when cruise ships are docked at the Broadway Pier and cruise ship related traffic is accessing the pier. Traffic control would allow pedestrian crossing to alternate with traffic flow when cruise ships are present. The bollards would be removed when cruise ships are not at dock, to allow pedestrians to cross the plaza/driveway.

Phase 1C Broadway Pier Design Features

Phase 1C has been removed prior to the Port's approval of the permit, and is no longer part of the proposed project. It was to include development of a design and special event waterfront program on Broadway Pier to enhance opportunities for public access and activities onto the pier.

Phase 1D: Lane Field Setback Park/Plaza

This phase would create a "park/plaza" in a 150-foot wide setback from North Harbor Drive on the Lane Field site. Lane Field is currently a surface parking lot on the northeast corner of West Broadway and North Harbor Drive. On January 8, 2009, the Commission approved, on appeal, a permit for construction of up to 800 hotel rooms, retail stores, and restaurants on Lane Field (A-6-PSD-08-04/A-6-PSD-08-101 Lane Field). To date, this project has not been constructed.

Construction of the setback park/plaza would require the Commission to approve an amendment to the Lane Field permit, and may require additional environmental analysis and discretionary approvals. As such, the design of the park has not been finalized. However, it is described in the approved permit as "one contiguous space that functions as a significant designation and gathering point for the local community and San Diego visitors. Designed with a mix of hardscape and landscape, the Setback Park/Plaza would contain lawn or turf space appropriate and available for passive recreation such as sitting and picnicking." The Park/Plaza must include a significant focal point at its southernmost boundary adjacent to the West Broadway and North Harbor Drive intersection, such as a public art installation, a water feature, or some other element. The eastern boundary may be straight or curvilinear, as long as the gross land area is equal to a 150-foot setback.

The park is described as approximately 2-acres in size; however, the permit gives the Lane Field developer the right to develop an area extending for approximately 25 feet west from the eastern boundary of the setback for uses ancillary to the Lane Field project; thus, this area cannot be truly characterized as "public." Excluding these 25 feet would result in a public park/plaza closer to 1.66 acres in size. The approved permit also includes language that as soon as feasible following acquisition of the 1220 Pacific Highway site from the current owners, the U.S. Navy, the Setback Park/Plaza will be extended north from the Lane Field site to the prolongation of "B" Street. This could add up to 0.5 acres to the size of the park.

- Lane Field Setback Park/Plaza Plan

The permit also includes a Lane Field Setback Park/Plaza Plan for Phase 1D to identify the requirements of the Setback Park/Plaza and establish milestones which are intended to ensure the Park/Plaza will be constructed in a timely manner. (see Exhibit #13 for Plan as approved by the Port.)

As proposed, the Park Plan requires the park to be constructed as part of the NEVP Phase I project or as part of the Lane Field project, whichever is developed first. More specifically, the Park must be constructed prior to the earlier of the “substantial completion” of the NEVP Phase I project OR opening of the first hotel to be constructed as part of the Lane field project.

The Park Plan requires that construction of the Setback Park/Plaza be completed within four years following commencement of construction of the earliest of the NEVP Phase 1A and 1B sub-phases.

- **Public Access & Parking Management Program**

A public access program has also been developed and is attached as part of the approved permit (see Exhibit #14 for plan as approved by the Port). The plan outlines public access and circulation improvements associated with the proposed project, including plans for public access during cruise ship operations and a parking management program.

When cruise ships are not present, removable bollards would be installed at the eastern edge of the esplanade abutting North Harbor Drive to prevent vehicles from entering Broadway Plaza. The full 1,000-foot length of the Broadway Pier would typically be open to the public. The Broadway Pier forecourt and gates at the front of Broadway Pier will be open to the public 24 hours a day, 7 days a week, unless in use by a cruise ship or an exclusive event. As proposed, the viewcourt (west building face to end of Broadway Pier) gates fronting the Broadway Pier facility building would be open from sunrise to sunset unless in use by a cruise ship or an exclusive event. The approved permit also includes a plan for identifying replacement spaces for the 146 parking spaces being removed until operation of an Embarcadero Circulator Shuttle begins.

The standard of review for the project is consistency with the certified Port Master Plan (PMP) and the public access policies of the Coastal Act.

2. Planning History. The North Embarcadero Visionary Plan is a conceptual-level, illustrative planning document resulting from a coordinated planning effort by the North Embarcadero Alliance, a planning body made up of officials from the Port District, City of San Diego, County of San Diego, Centre City Development Corporation, and U.S. Navy. The Alliance developed the Visionary Plan in 1998 to guide the development of the North Embarcadero area.

Although the proposed project is identified as the "North Embarcadero Visionary Plan" (NEVP) Phase 1 Coastal Access Features project, the NEVP itself is not the standard of review for the coastal development permit. The NEVP was not submitted to nor certified by the Coastal Commission as part of the PMP. Rather, at the Commission meeting of March 14, 2001, the Commission approved the San Diego Unified Port District Port Master Plan (PMP) Amendment #27 (the NEVP PMPA) creating a new "North Embarcadero Overlay District" within the existing Waterfront district. The amendment incorporated many of the goals and projects identified in the Visionary Plan for the North

Embarcadero, including: the redevelopment of Lane Field; the narrowing of Harbor Drive from four lanes to three between Grape Street and Pacific Highway; the extension of B and C Streets between Pacific Highway and North Harbor Drive; construction of a new 25-foot wide pedestrian esplanade along the water's edge at Harbor Drive; the replacement of three existing industrial piers with one new public pier at Grape Street; construction of a small commercial recreation facility on the new Grape Street Pier; construction of a restaurant on the bayfront inland of the Grape Street Pier; modernization of the cruise ship terminal at the B Street Pier; and docking the U.S.S. Midway Aircraft Carrier for use as a museum on the south side of Navy Pier. Only the PMP itself, including the text of the PMP, the exhibits, the project list, and those portions of the NEVP specifically referenced in the PMP are the standard of review for coastal development permits issued by the Port District.

3. Inconsistency with the Certified Port Master Plan. While the proposed project, which consists of public access and visitor-serving amenities, has many positive features, there are several significant inconsistencies with the following Port Master Plan goals and policies:

VI. THE PORT DISTRICT WILL INTEGRATE THE TIDELANDS INTO A FUNCTIONAL REGIONAL TRANSPORTATION NETWORK

- Encouraging development of improved major rail, water and air systems linking the San Diego region with the rest of the nation.
- Improved automobile linkages, parking programs and facilities, so as to minimize the use of waterfront for parking purposes
- Providing pedestrian linkages
- Encouraging development of non-automobile linkage systems to bridge the gap between pedestrian and major mass systems.

VIII. THE PORT DISTRICT WILL ENHANCE AND MAINTAIN THE BAY AND TIDELANDS AS AN ATTRACTIVE PHYSICAL AND BIOLOGICAL ENTITY.

- Views should be enhanced through view corridors, the preservation of panoramas, accentuation of vistas, and shielding of the incongruous and inconsistent.
- Establish guidelines and standards facilitating the retention and development of an aesthetically pleasing tideland environment free of noxious odors, excessive noise, and hazards to the health and welfare of the people of California.

IX. THE PORT DISTRICT WILL INSURE PHYSICAL ACCESS TO THE BAY EXCEPT AS NECESSARY TO PROVIDE FOR SAFETY AND SECURITY, OR TO AVOID INTERFERENCE WITH WATERFRONT ACTIVITIES.

- Provide "windows to the water" at frequent and convenient locations around the entire periphery of the bay with public right-of-way, automobile parking and other appropriate facilities.
 - Provide access along the waterfront wherever possible with promenades and paths where appropriate, and elimination of unnecessary barricades which extend into the water.
- X. THE QUALITY OF WATER IN SAN DIEGO BAY WILL BE MAINTAINED AT SUCH A LEVEL AS WILL PERMIT HUMAN WATER CONTACT ACTIVITIES.
- Insure through lease agreements that Port District tenants do not contribute to water pollution.
 - Cooperate with the Regional Water Quality Control Board, the County Health Department, and other public agencies in a continual program of monitoring water quality and identifying source of any pollutant.
 - Adopt ordinances, and take other legal and remedial action to eliminate sources of pollution.
- XI. THE PORT DISTRICT WILL PROTECT, PRESERVE, AND ENHANCE NATURAL RESOURCES, INCLUDING NATURAL PLANT AND ANIMAL LIFE IN THE BAY AS A DESIRABLE AMENITY, AN ECOLOGICAL NECESSITY, AND A VALUABLE AND USABLE RESOURCE.
- Keep apprised of the growing body of knowledge on ecological balance and interrelationships.
 - Administer the natural resources so that impacts upon natural resource values remain compatible with the preservation requirements of the public trust.

A. Public Access & Recreation. The appellants contend that the project is not consistent with the certified Port Master Plan, and that approval of the project will have adverse impacts on public access, circulation, and public recreation.

The PMP is fairly general about how and where the public improvements along Harbor Drive are to be designed and located, with several significant exceptions: the plan specifically requires plazas at Beech and Ash Streets, B Street Pier, and Broadway Piers; states that Harbor Drive will be narrowed to three lanes; parks must be located between the plazas on the esplanade; the promenade must be a continuous 25-foot wide paved area adjacent to the water's edge; and, the wharf side is to remain clear of objects or furnishings that would block Bay views. Figure 11 of the PMP (ref. Exhibit #2) graphically demonstrates Harbor Drive curving at West Broadway Street to

accommodate an oval-shaped park at the foot of Broadway Pier. Port staff have estimated that this park would be approximately 79,200 sq.ft. in size, (including some amount of area that would be necessary to allow access to the pier from Harbor Drive), with another 24,300 sq.ft. potentially needing to be located in a new over-water structure. The text also includes by reference Figure 5.3 (Section of Bayfront Esplanade) of the North Embarcadero Visionary Plan, which is a cross-section of the esplanade and identifies the design, minimum width and location of the specific public access features along the North Embarcadero (ref. Exhibit #8).

However, the approved project would eliminate the curve in Harbor Drive at the intersection of West Broadway, and redesign the oval-shaped park/plaza shown on the PMP Precise Plan to a smaller rectangular-shaped plaza that must also function as a driveway to the approved new cruise ship terminal on Broadway Pier. In its place, an approximately 16,000 sq.ft. rectangular plaza/pier entrance is proposed, with the esplanade continuing on both sides.

The project approved by the Port also includes a requirement that a new park/plaza be developed in an approximately 150-foot wide setback from Harbor Drive on Lane Field. As noted above, the Port's permit gives the Lane Field developer the right to develop an area extending for approximately 25 feet west of the eastern boundary of the setback for uses ancillary to the Lane Field project; thus, this area cannot be described as truly "public." Excluding this area along the eastern boundary, the public park/plaza would be approximately 1.66 acres in size.

It is indisputable that the approved park/plaza and road configuration is not the same as that referenced in the existing PMP. The Port argues that the design in the certified PMP is infeasible, and that the loss of park/plaza area will be offset by the Lane Field Setback Park/Plaza, the future extension of this park at 1220 Pacific Highway, and the future development of another 1.25 acres of waterfront space.

However, the proposed Setback Park would be smaller than the oval park, and would not be on the waterfront. The linear configuration would be less amenable to large gatherings and events, and would not have the visual prominence or significance that a location at the foot of Broadway would have. The requirement to build an additional 1.25 acres of waterfront park (approximately 50% of the size of the oval park in the certified plan), is an important addition to the project. But as proposed, the Commission has no assurance that this additional waterfront public park space will materialize, because there are no timelines or deadlines associated with the requirement. Similarly, there is no guarantee that the extension of the park at 1220 Pacific Highway will ever occur, as the Port does not currently own this property.

While the PMP does not contain any textual description of how the oval park/plaza was intended to operate, the NEVP does contain guidance on what type of space was envisioned at the foot of Broadway:

It is a landscaped public open space, accommodating recreational activities on a daily basis or large public gatherings. The park includes a central plaza punctuated by a landmark element such as a fountain or sculpture, orienting visitors and drawing attention to this important public precinct.

Broadway Landing Park is approximately two city blocks in size, considerably larger than any of the parks in downtown. Because of its one-sided configuration, with buildings only to the east, the scale of the bay gives the space an expansive feeling larger than its actual size, much as in Baltimore's Inner Harbor or the harbor in Barcelona. The park is located on the west side of Harbor Drive and is not divided by any streets....

On rare occasions, a drive at the western perimeter of the park could provide limited vehicular access to the Broadway Pier to serve visiting ships. (Pages 100-101, NEVP).

The proposed project is clearly substantially different than this guidance vision in scope or configuration.

In addition, the Lane Field Setback Park and the future 1.25 acre waterfront park will require future environmental review and discretionary permits, an analysis of siting constraints, planning of passive vs. active space and landscape vs. hardscape, all of which should be evaluated within the context of the quality or quantity of park/open space area available in the North Embarcadero as a whole. This is the type of analysis and balancing of various planning goals that should occur through the Port Master Plan Amendment process and not through a CDP.

Unlike the NEVP, the Port Master Plan is *not* a guidance document; the policies and standards contained within it are to be followed closely and specifically. If and when circumstances change, the authorized procedure is to amend the PMP after evaluating any necessary Plan revisions for consistency with the Coastal Act, through a public hearing at both the local and state level. The integrity of the PMP and the planning process depends on the public and the Commission being able to rely on the policies and principles in the PMP being consistently and accurately implemented, including those represented graphically and by reference.

Port staff have acknowledged that there have been several changes in potential development patterns along the North Embarcadero that will require a comprehensive PMPA, but have determined these Phase I improvements should go forward without prejudice to that future review. However, the PMP cannot simply be amended in practice through a CDP on a piecemeal, project-by-project basis, where the overall context of the impacts cannot be evaluated or mitigated to ensure consistency with the PMP.

In addition to the park/plaza and road revisions that are inconsistent with the PMP, the proposed project involves construction of a promenade that is significantly different than

Figure 5.3 of the NEVP, which is incorporated by reference into the PMP (ref. Exhibit #8 of this staff report for Figure 5.3; compare to Exhibit #7 for the same area in the approved Port CDP). For example, the approved promenade is 29, not 25 feet wide; instead of a dedicated bike path adjacent to Harbor Drive, there will be a shared pedestrian/bike promenade, there is a new water quality feature, and other small adjustments have been made to the design of the esplanade. As approved, the revised configuration for the access improvements may be acceptable, but it is not consistent with the PMP as certified.

The approved project includes removal of the vast majority of the existing street and off-street parking spaces which were addressed in the Master EIR (MEIR) and also in the addendum to the MEIR done for the Phase I NEVP Improvements. Specifically, in order to create commercial loading and unloading zones, the project would eliminate 170 existing public spaces along Harbor Drive, to be replaced with 24 parallel parking spaces, with the possibility of increasing these to a total of 58 diagonal parking spaces in the future. The 170 public parking spaces that would be eliminated are the closest, most convenient spaces to the existing North Embarcadero promenade. New parking is not necessarily the best or most appropriate use of prime waterfront land, but when removing parking, providing alternative parking programs and facilities is necessary in order to maintain and promote public access to the coast.

The CDP incorporates a Parking Management Plan which requires the identification of replacement parking and implementation of a Circulator Shuttle, which should help offset the impacts from removal of the parking. However, as proposed, the Circulator Shuttle's hours and months of operation are fairly limited, and there is no set start date. A limited scope was appropriate for the shuttle associated with the Lane Field hotel, which was required to be the responsibility largely of one private applicant operator, but the proposed shuttle would be implemented by the Port District, whose proposed project impacts a larger area. Therefore, the shuttle should be more expansive in size and scale. To ensure that the shuttle program is actually implemented, there should also be a specific start date. As proposed, impacts to public access may result, inconsistent with the above cited PMP policies.

The project will have impacts on public parking, circulation, and public access; thus, the project is potentially inconsistent with the public access policies of the certified PMP. Therefore, the appeal raises a substantial issue with regards to the appellants' contentions.

B. Geotechnical Hazards. The appellants contend that the project is not consistent with the certified Port Master Plan policies that require development to facilitate a tideland environment free of hazards to the health and welfare of the people of California resulting from seismic risk. In a seismically active area, there is the potential that during a seismic event, sewer and/or water pipe ruptures could result in contamination of the adjacent sensitive habitat of San Diego Bay. The Port did not include an analysis of this potential impact. Therefore, the appeal raises a substantial with regards to the appellants' contentions.

5. Conclusion. In summary, the public access improvements approved by the Port are substantial, but they are significantly different than the project described in the certified PMP. As a result, it is not clear if adequate and functional park/open space area, as identified in the PMP, will be provided. In addition, the parking management plan that the project relies on is limited in scope and scale, and may not fully mitigate the project's impacts to public access and recreation. While many of the features and amenities provided by the project are beneficial, without review of the project in the context of an overall planning effort through a Port Master Plan Amendment, it is not clear if the access and visitor serving amenities are adequate. The site may also be at risk during a seismic event. Therefore, the project raises a substantial issue regarding consistency with the Port Master Plan.

6. Substantial Issue Factors. As discussed above, there is inadequate factual and legal support for the Port's determination that the proposed development is consistent with the certified PMP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. The objections to the project suggested by the appellants raise substantial issues of regional or statewide significance and the decision creates a poor precedent with respect to the proper interpretation of the Port's PMP, as the Port's determination of when development requires a Port Master Plan Amendment are not only incorrect interpretations of the PMP, but they could also set an adverse precedent elsewhere along the coast. In addition, the coastal resources affected by the decision are significant.

I. STAFF RECOMMENDATION ON THE COASTAL PERMIT

The staff recommends the Commission adopt the following resolutions:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-PSD-11-006 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified Port Master Plan and the public access policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the

environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following special conditions:

1. Waterfront & Lane Field Destination Park Plan. The applicant shall comply with all requirements in the attached “Waterfront & Lane Field Destination Park Plan” dated March 23, 2011, included as Attachment A.

Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Broadway Pier Design Principles and Programming Plan. The applicant shall comply with all requirements contained in the attached “Broadway Pier Design Principles and Programming Plan” dated March 23, 2011, included as Attachment B.

Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Revised Public Access Program. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director, a final Public Access Program. Said plan shall be in substantial conformance with the “NEVP Phase 1 Coastal Access Features Project Public Access Program” dated January 2011, attached as Exhibit #14, however, revised to include a section titled “**5.0 NEVP Public Spaces Interaction.**” This section shall include policies to promote interaction between the public spaces within the NEVP Phase I project, including Broadway Pier, Broadway Plaza, and the Lane Field Setback Park. The policies will place particular emphasis on how public events and activating uses will encourage safe and integrated pedestrian circulation between Broadway Pier and Lane Field Setback Park across Harbor Drive.

Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Parking Management and Transit Opportunity Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a Final Parking Management and Transit Opportunity Plan to the Executive Director for review and written approval. The applicant shall comply with all requirements contained in the Final Parking Management and Transit Opportunity Plan, which must include the elements outlined below. In addition, the applicant and/or contractor shall implement a “Construction Parking Management Plan” throughout project construction.

- a) Parking Removal Plan. The Parking Removal Plan shall indicate the location of the approximately 146 parking spaces to be removed as part of Phases 1A and 1B. No removal of public parking shall occur until replacement parking is identified pursuant to subsection (b) below. The replacement spaces shall not be removed until the Embarcadero Circulator Shuttle commences operations as described in section (c) below.
- b) Replacement Parking. The Parking Management Plan shall identify the location of all of the approximately 176 parking spaces to be removed. The parking spaces will be relocated to one or more sites immediately adjacent to the area NEVP Phase 1, which may include Lane Field and/or Navy Pier. The Plan shall document and include the following provisions:
 - The replacement spaces are excess spaces not currently in demand;
 - The replacement spaces are within 10 minutes walking distance of the spaces that are to be removed;
 - The replacement spaces shall be available at least until the Circulator Shuttle is operating;
 - Limitations and restrictions associated with the replacement spaces shall be identified; specifically, any potential fee structure and any time limitations placed on the parking;
 - The replacement spaces shall be available and priced for short-term parking, rather than all-day use;
 - The replacement spaces shall be secured prior to or concurrent with the removal of the parking spaces; and,
 - Signage directing the public to nearby parking opportunities shall be provided at the project site.
- c) Embarcadero Circulator Shuttle. The Parking Management Plan shall include a plan for implementation of an Embarcadero Circulator Shuttle upon the re-opening of North Harbor Drive as part of NEVP Phase 1B. The Plan shall address the following:
 - Identification of the shuttle route along Harbor Drive within the North Embarcadero to be developed in coordination with the Lane Field Development Project shuttle and other ongoing efforts toward providing a dedicated, non-automobile circulation system connecting off-site parking to

District leaseholds in both the North and South Embarcadero, including service to areas around the airport and Downtown;

- Identification of the hours and months of operation to include, at a minimum, summer months daily from Memorial Day through Labor Day, for no less than eight hours a day.
- Number of shuttles proposed and wait times between stops;
- Fee structure which must be equal to or less than the cost of existing transit options between the airport and the Amtrak station; and,
- A timetable for implementation of the Circulator Shuttle.

- d) Wayfinding Signage. The Parking Management Plan shall include a signage program with a multifaceted wayfinding signage element addressing pedestrians, vehicles, and bike paths. The signs shall be designed to maximize public access within the project limits. The Parking Management Plan shall identify the location and message of the signage and shall require the signage to be installed prior to or concurrent with the loss of any public parking spaces.
- e) Transportation Hubs. The Parking Management Plan shall include one of the three transportation hubs that are recommended to make it easier for the public to move about the North Embarcadero. The recommended hub within the NEVP Phase 1 Project limits is near Broadway Plaza. The transportation hub shall include a consistent set of facilities, services, and signage including an Embarcadero Circulator Shuttle stop, bike racks, transportation information displays, pedicab access, passenger and commercial loading and unloading zones, and clearly marked pedestrian paths. Plans for the hub facilities shall be included in the Parking Management Plan. Recognizing the potential impacts of construction activity that may damage permanent facilities proposed as part of the Project, the applicant may install temporary-type facilities with the loss of any public parking spaces. However, permanent facilities shall be installed prior to completion of construction of Phases 1A and 1B.
- f) Special Events Traffic and Parking. The Parking Management Plan shall include a section on how special events at the public spaces in the project area will be managed to ensure that the general public will be able to access the waterfront during special events. The plan shall specify that private and/or ticketed events in particular must provide adequate offsite parking and/or shuttle access to the event, and not rely exclusively on public shoreline parking to accommodate guest demand, and demonstrate how such special event parking measures will be implemented--for example, by requiring tickets, event flyers and websites to include parking information.
- g) Construction Parking Management Plan. The construction contractor shall provide construction employees with transit and ride share information and subsidies.

The applicant shall undertake development in accordance with the approved Parking Management Plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the plan shall occur without an approved amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

5. 1220 Pacific Highway. The Port District must make a good-faith effort to acquire that portion of property within the 150-foot setback on the Navy's leasehold at 1220 Pacific Highway to incorporate it into the Setback Park/Plaza.

- a) The Port District must continue to explore private and public funding options for acquisition of the Navy leasehold interest at 1220 Pacific Highway.
- b) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Port District must request funding from the City of San Diego Redevelopment Agency for the acquisition of 1220 Pacific Highway.
- c) If the Port District acquires the 1220 Pacific Highway leasehold, it must commence any required studies and/or environmental documents and permits required to demolish the existing structures within the 150-foot setback on the site, and construct the park extension within 30 days of such acquisition. Within 30 days of the demolition, the Port District must commence construction on the portion of the Setback Park/Plaza within the vacated leasehold area.

6. View Corridors. As proposed, the restroom located across from C Street will be located outside of the 40-foot wide C Street right-of-way clear zone. The proposed Project includes a raised, planted median with non-invasive palms. Any additional landscaping resulting from the proposed Project will respect existing views down West Broadway.

7. Revised Final Landscape Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, final landscape plans. Said plans shall demonstrate that all landscaping on the site shall be drought-tolerant (or irrigated via reclaimed water) and (1) native or (2) non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council (CAL-IPC) Inventory Database, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Mexican Fan Palms and Canary Island Date Palms shall be removed from the proposed plant palette.

The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the plan shall occur without a Coastal Commission approved amendment

to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Compliance with the San Diego Unified Port District Conditions of Approval. All conditions of approval by the San Diego Unified Port District decision (CDP-2011-01) on January 11, 2011 for the proposed project as shown in Exhibit #12, including attachments, are hereby incorporated as special conditions of the subject permit unless specifically modified by any special conditions set forth herein. For purposes of condition compliance, the Port District shall be responsible for reviewing and determining compliance with the special conditions included in Exhibit #12, except for those specifically modified by any special condition set forth herein. **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION,** the Port District shall notify the Executive Director when all of the conditions of the permit necessary for commencement of construction have been met. Any proposed changes shall be limited to immaterial or minor changes which do not have the potential for adverse impacts, either individually or cumulatively, on coastal resources or public access to and along the shoreline. All proposed changes shall be reported to the Executive Director for review and written approval. Changes that are not immaterial or that alter the physical aspect of the project (e.g. building height, building footprint, esplanade width, parking or public access) shall require an amendment to this Coastal Development Permit, unless the Executive Director determines that no amendment is legally required.

9. Liability for Costs and Attorneys Fees. The applicant shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

10. Conformance with Engineering Recommendations. The project shall comply with the recommendations contained in the "Geotechnical Report for the North Embarcadero Visionary Plan San Diego California" by Project Design Consultants dated February 26, 2010.

The applicant shall undertake development in accordance with the recommendations of report. Any proposed changes to the recommendations shall be reported to the Executive Director. No changes to the recommendations shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Planning History. The project description and history is described above under the substantial issue findings on Page 6 of this report and is incorporated herein by reference.

2. Public Access/Recreation/Visitor-Serving Use Priority. The following Coastal Access policies are relevant and applicable:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

[...]

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

The following PMP policies are relevant and applicable:

IV. THE PORT DISTRICT, IN RECOGNITION OF THE POSSIBILITY THAT ITS ACTION MAY INADVERTENTLY TEND TO SUBSIDIZE OR ENHANCE CERTAIN OTHER ACTIVITIES, WILL EMPHASIZE THE GENERAL WELFARE OF STATEWIDE CONSIDERATIONS OVER MORE LOCAL ONES AND PUBLIC BENEFITS OVER PRIVATE ONES.

- Develop the multiple purpose use of the tidelands for the benefits of all the people while giving due consideration to the unique problems presented by the area, including several separate cities and unincorporated populated areas, and the facts and circumstances related to the development of tideland and port facilities.
- Foster and encourage the development of commerce, navigation, fisheries and recreation by the expenditure of public moneys for the preservation of lands in their natural state, the reclamation of tidelands, the construction of facilities, and the promotion of its use.

- Encourage non-exclusory uses on tidelands.

VI. THE PORT DISTRICT WILL INTEGRATE THE TIDELANDS INTO A FUNCTIONAL REGIONAL TRANSPORTATION NETWORK

- Encouraging development of improved major rail, water and air systems linking the San Diego region with the rest of the nation.
- Improved automobile linkages, parking programs and facilities, so as to minimize the use of waterfront for parking purposes
- Providing pedestrian linkages
- Encouraging development of non-automobile linkage systems to bridge the gap between pedestrian and major mass systems.

VII. THE PORT DISTRICT WILL REMAIN SENSITIVE TO THE NEEDS, AND COOPERATE WITH ADJACENT COMMUNITIES AND OTHER APPROPRIATE GOVERNMENTAL AGENCIES IN BAY AND TIDELAND DEVELOPMENT.

- The Port District will at all times attempt to relate tidelands to the uplands.
- The Port District will cooperate, when appropriate, with other local governmental agencies in comprehensive studies of existing financing methods and sources which relate to the physical development of the tidelands and adjacent uplands.

IX. THE PORT DISTRICT WILL INSURE PHYSICAL ACCESS TO THE BAY EXCEPT AS NECESSARY TO PROVIDE FOR THE SAFETY AND SECURITY, OR TO AVOID INTERFERENCE WITH WATERFRONT ACTIVITIES.

- Provide "windows to the water" at frequent and convenient locations around the entire periphery of the bay with public right-of-way, automobile parking and
- other appropriate facilities.
- Provide access along the waterfront wherever possible with promenades and paths where appropriate, and elimination of unnecessary barricades which extend into the water.

Page 17 of the PMP states:

Maximum access to the shoreline is encouraged except where security or public safety factors would negate.

Page 38 of the PMP states:

Circulation and Navigation System

...The provision of adequate access to and circulation within the San Diego Bay area is a key element in the success of economic activities, of the viability of public services and amenities, and the preservation of the area's environmental setting. The various modes of transport must be coordinated not only to the various land and water uses they support, but to each other to avoid incompatibilities, congestion, hazardous movements and unnecessary expenditures.

Proposed Coastal Development Permit

The proposed project involves the construction of a variety of public access improvements along the North Embarcadero shoreline, including widening the existing sidewalks along Harbor Drive and West Broadway, adding landscaping, constructing water quality improvements, building new ticket kiosks and restrooms, narrowing a small portion of Harbor Drive to create a more pedestrian-oriented environment, and providing a new linear park/plaza next to the future hotel development proposed on Lane Field.

As described above in detail, since the Commission previously reviewed the project, the new linear park at Lane Field has been added, and the Port has committed to implementing a new Embarcadero Circulator shuttle, and adding a 1.25 acre waterfront park at some point in the future. In addition, the proposed public access and parking management plan has been substantially expanded and revised to be consistent with Commission staff direction provided to the Port District during and since the review of the previous permit. Thus, the proposed project now contains far more protection of and enhancements to public access and recreation. Nevertheless, there are several significant concerns regarding both the process and substance of the approved permit.

Viewed in isolation, the proposed project is clearly an enhancement to existing public access opportunities and is largely unobjectionable. Improving the pedestrian experience and water quality along Harbor Drive is a laudable goal; a widened esplanade, with the landscape and hardscape features and street furniture proposed, and the setback park/plaza on Lane Field would be an asset to the Embarcadero.

The proposed improvements could potentially have some negative impacts on public access and recreation, because the project would eliminate the vast majority of the existing street and off-street public parking spaces. The proposed Embarcadero Circulator shuttle was modeled on the shuttle required for the Lane Field hotel project, which was required to be the responsibility largely of one private applicant operator. However, the proposed shuttle would be implemented by the Port District, which is proposing a much larger project that would affect a larger area, and as such, its shuttle program should be more expansive in size and scale. It must also include a specific start date to ensure that the program is implemented.

Impacts from the removal of parking are potentially significant, and as such, special conditions have been placed on the permit to mitigate or avoid these impacts to public access. These impacts and conditions are discussed in greater detail below.

However, the more fundamental concerns regarding the approved project are twofold. First, the proposed development is distinctly different than the public access recreation improvements planned for and approved in the existing certified Port Master Plan. Second, as currently proposed, the proposed public improvements are smaller and lower quality—less useful and meaningful to the public—than those adopted in the approved Port Master Plan, and do not fully mitigate for the loss of the oval park/plaza contained in the existing plan.

Inconsistencies with the Certified Port Master Plan

The PMP is fairly general about how and where the public improvements along Harbor Drive are to be designed and located, with several significant exceptions: the plan specifically requires plazas at Beech and Ash Streets, B Street Pier, and Broadway Piers; states that Harbor Drive will be narrowed to three lanes; parks must be located between the plazas on the esplanade; the promenade must be a continuous 25-foot wide paved area adjacent to the water's edge; and, the wharf side is to remain clear of objects or furnishings that would block Bay views. Figure 11 of the PMP (ref. Exhibit #2) graphically demonstrates Harbor Drive curving at West Broadway Street to accommodate an oval-shaped park at the foot of Broadway Pier. The PMP designates this area “Park/Plaza.”

The text of the plan describes the area in general terms as follows:

The esplanade expands into plazas at Beach and Ash Streets, B Street Pier, and Broadway Pier. These plazas will be designed to provide open space, sitting and strolling areas for tourist and nearby workers, and to increase the sense of destination for Embarcadero visitors.

Thus, under the certified Plan, these areas could be developed as turf or hardscape plazas, but in either case, the space is to be available for passive recreation. The size of the proposed park/plazas are not specified in the PMP; however, Port staff have attempted to estimate how large the open space at Broadway Pier might be based on the diagram in the PMP. It is not an easy calculation, as the precise plan is not meant to be exactly to scale. In addition, construction of the park (and the accompanying relocation of Harbor Drive) would have required the use of a portion of Lane Field and the Navy Broadway Complex. The Navy Broadway Complex is not within the Port's jurisdiction, and the Commission has certified construction of a hotel project at Lane Field which would have to be revised were a park to be constructed as shown in the certified Plan.

Nevertheless, the graphic depiction of the park, the text of the PMP, and the guidance of the NEVP all clearly point to the expectation and requirement that a large, destination, waterfront park be constructed at the foot of Broadway. The Port has prepared an

estimation of the total size of the park/plaza as graphically depicted in the existing PMP (see Exhibit #2). Not including the portion of the oval shown potentially extending out over the water (the Commission did not approve any construction that would have required the park to be extended out over the bay), the total size of the park would be approximately 104,950 sq.ft., or 2.5 acres.

The most obvious and significant difference between the proposed project and the certified plan is the elimination of the curve in Harbor Drive at the intersection of West Broadway, and redesign of the oval-shaped park/plaza to an approximately 16,000 sq.ft. rectangular-shaped plaza that must also function as a driveway to the approved new cruise ship terminal on Broadway Pier (see. Exhibits #4, #5 & #6). Phase 1D provides for construction of an approximately 1.66 acre linear park along the inland side of Harbor Drive (which is also not depicted graphically or in the text of the certified PMP).

There are other more minor differences between the project and the certified PMP. Once a policy, figure, or project is inserted into the PMP, it is no longer guidance, but the standard of review. The proposed project involves construction of a promenade that is different than Figure 5.3 of the NEVP, which is incorporated by reference into the PMP (ref. Exhibit #8 of this staff report for Figure 5.3; compare to Exhibit #7 from the approved Port CDP). For example, the proposed promenade is 29, not 25 feet wide; instead of a dedicated bike path adjacent to Harbor Drive, there is a new water quality feature, and other small adjustments have been made to the design of the esplanade including changing a 10-foot wide designated bike path to a 29-foot wide multi-use promenade.

Impacts to Public Access and Recreation

While it is clear that the proposed improvements are not identical to those described in the certified Port Master Plan, the Port has taken the position that the proposed project provides equal or superior public benefits. However, the Commission cannot evaluate development by its “equivalency” with the standard of review. Equivalency is very subjective, and unlike the NEVP, the Port Master Plan is *not* a guidance document; the plans, policies and standards contained within it are to be followed closely and specifically. The Commission recognizes that circumstances change, and plans and projects evolve over time. Rather than incrementally altering individual projects, the Port Master Plan Amendment process is designed to allow revisions and amendments to the plan to occur in a broader context with public and Commission input. The integrity of the PMP and the planning process depends on the public and the Commission being able to rely on the policies and principles in the PMP being consistently and accurately implemented, including those represented graphically and by reference.

Even if such an “equivalency” analysis were appropriate, a comparison of the size and function of the proposed project to the certified PMP shows that, as currently approved, they are not equivalent. The Port Master Plan as currently certified provides for an approximately 2.5 acre waterfront destination park/plaza area at the foot of Broadway. The addition of the 1.66 acre Phase 1D Lane Field Setback Park/Plaza goes a long way

towards providing comparable public space, but as described above in the Substantial Issue section of this staff report, the proposed Setback Park/Plaza would not only be smaller than the oval park, the linear configuration would also be less amenable to large gatherings and events, and it would not have the visual prominence or significance that a park located at the foot of Broadway would have. In addition, the Setback Park would not be on the waterfront, but on the inland side of Harbor Drive, a wide major avenue, across the street from the other public spaces proposed in the project on the Harbor Drive promenade and Broadway Pier. There are no provisions in the permit for providing and promoting interaction between these areas to make the space meaningful and attractive to the public. The pedestrian-related public improvements and activities program briefly considered by the Port as Phase 1C was removed by the Port prior to approval of the project, thereby eliminating what could have been an important public activity node for the surrounding parks and plazas.

The requirement to build an additional 1.25 acres of waterfront park (approximately 50% of the size of the oval park in the certified plan), is noteworthy. However, as proposed, the Commission has no assurance that this additional waterfront public park space will materialize, because there are no timelines or deadlines associated with the requirement.

Therefore, the project is both inconsistent with the content of the certified PMP, and as proposed, the project does not achieve a comparable level or quality of public open space when compared to the waterfront park shown in the certified PMP.

Nevertheless, the proposed public esplanade, the Lane Field Setback Park/Plaza, the water quality improvements, and landscape features would significantly improve the pedestrian experience and visual quality of the area compared to the existing development. The Commission is generally disinclined to discourage public improvements to access and recreation, and appreciates that timing and funding constraints could impact the Port's ability to do any improvements in the area if the Phase 1 NEVP improvements were seriously delayed.

Therefore, Commission and Port staff have worked together to create a plan that will first assure that an equal amount and quality of public access and recreational space will be created on the North Embarcadero waterfront to make up for the loss of the oval park. Second, the integrity of the PMP will be preserved, as the changes proposed to the PMP through this project must be reviewed and approved as a PMP Amendment.

Special Condition #1 requires implementation of a "Waterfront & Lane Field Destination Park Plan" (see Attachment A). As approved by the Port, the project included a plan to create a park in the Lane Field setback. The Waterfront & Lane Field Destination Park Plan requires that in addition to designing and implementing the Lane Field park, a new 1.25 acre waterfront park/plaza be identified, planned and constructed as Phase 1E of the project. The Park Plan identifies and describes in detail the specific requirements that the Waterfront Park must meet, the components of the associated EIR and PMPA, and establishes milestones which the Port District must meet during the environmental review

and approval process, to ensure a Waterfront Destination Park will be constructed in a timely manner.

Development of a new park will require environmental analysis, public outreach, discretionary approvals, including, as noted, a Port Master Plan Amendment. Funding must also be identified and obtained. Thus, a particular site and design has not yet been determined. However, the Park Plan does establish very specific, mandatory parameters for the size, nature, and function of the park, potential locations which must be analyzed, and milestones for review and construction of the project. Specifically, the Waterfront Park must be a minimum of 1.25 acres in size, approximately one-half the size of the oval-shaped park/plaza. The Park need not necessarily be entirely contiguous (i.e., the park space could be divided into more than one area), but the majority of the Park must be one contiguous space, such that it forms a significant destination and gathering point.

Because the Port Master Plan Amendment will be the primary means by which Phase IE of the NEVP Public Access Improvements permit will be implemented, the Park Plan requires specific elements be included in the EIR analysis and the PMPA. The EIR for the PMPA must analyze, at a minimum the following:

- Potential locations for a proposed alternative Waterfront Destination Park including, at a minimum:
 - The esplanade near Navy Pier, in the area between the Navy Broadway Complex and the waterfront, including an evaluation of closing Harbor Drive to automobiles (except for emergency or shuttle access) in this location;
 - The esplanade across from or near the County Administration Building;

The analysis must include a qualitative (i.e. type of public experience) and quantitative (i.e. accounting of public open space) evaluation of the Port District's ability to provide an alternative Waterfront Destination Park in each location that meets the above-stated criteria. A portion of the 1.25 acres required to be part of the Waterfront Park may be included in the public space proposed at the foot of Broadway within the proposed Phase 1B subphase (North Harbor Drive realignment and esplanade).

Other elements to be analyzed in the EIR and incorporated into the PMPA must include:

- Revisions to existing Figure 11 to remove the oval park/plaza at the foot of Broadway and incorporate the replacement Waterfront Destination Park;
- Replacing parking removed by development of the alternative Waterfront Destination Park;
- Clarifying and/or revising the land use category "Park/Plaza" to differentiate between grassy "park" and hardscape "plaza;"
- A comprehensive evaluation of parks, plazas or other public open space in the North Embarcadero area, including an evaluation of the size and functionality of existing and planned spaces;
- Reducing automobile circulation in the Embarcadero area;

- Identifying opportunities to enhance pedestrian-oriented circulation along the waterfront, including along North Harbor Drive
- Converting Navy Pier into a park;
- Defining future uses of the Grape Street piers*; and
- Implementing the Embarcadero Circulator Shuttle.

*The existing PMP states that the three existing piers at Grape Street will be removed and replaced with a 30,000 sq.ft. curvilinear public pier with a 12,000 sq.ft. public boat dock designated as Park/Plaza. If the PMPA includes removal of the curvilinear public pier and/or public boat dock from the PMP, the public pier component must be replaced within the North Embarcadero and the EIR shall include an analysis of the impact to public access and recreation, and replacement of the pier with a substitute public pier of comparable size.

Other elements and specific projects may be considered as a result of future public outreach, and direction received from the Board of Port Commissioners.

The Plan includes a specific, aggressive timetable for the EIR and PMPA for the Waterfront Park that requires that the PMPA be brought to the Commission for review no later than two years after Commission action on the subject public access improvements permit. Furthermore, actual construction of the park must be complete within one year of Commission approval of the PMPA. It is the Commission's expectation that the PMPA process will give the Port, the public, and the Commission the opportunity to evaluate various possibilities for creating a new destination park in the context of a plan-level, comprehensive review of open space along the North Embarcadero, while still ensuring that mitigation for the impacts of the proposed project is provided in a timely manner.

Because the details of the Lane Field Park/Plaza have not yet been finalized, the Park Plan includes similar milestones and deadlines for completion of that phase of the project. The Plan requires completion of the Lane Field Setback Park/Plaza within three years following commencement of construction of either the NEVP Phase 1A (West Broadway) or 1B (Harbor Drive) sub-phase, whichever occurs first, not four years as approved by the Port.

Construction of the Lane Field Setback Park/Plaza will require Commission approval of an amendment to the Lane Field permit (CDP #A-6-PSD-08-004). The Lane Field permit was approved by the Commission in January 2009, for two hotels with 800 guest room, health club/spas, pools, ballrooms, and meeting rooms; a 3-story building surrounding the hotels with 80,000 sq.ft. of visitor-serving retail and restaurants, 1,330 underground parking spaces and public plazas, development of a public downtown shuttle system, and a hostel development program.

Due to a variety of factors, including the subject proposal to revise the Lane Field site to include a setback park/plaza, construction on the Lane Field project has not yet commenced, and the applicant has submitted a permit extension request. The extension request is currently on hold pending resolution of the subject permit, which will help the

Commission determine if there are changed circumstances that would effect the permit's consistency with the certified PMP. In any case, as noted, the permit will have to be amended to allow construction of the setback park. If the Commission does not approve that amendment, the subject project could not proceed as approved, and would have to be revised through an amendment to this permit.

With regard to the approved Lane Field project, it is important to note that the southwest corner of West Broadway and Harbor Drive, which is now proposed to be part of the setback park, was going to be a public plaza under the approved Lane Field permit (see Exhibit #11). Under the subject proposal, rather than a triangle-shaped plaza at this corner of the site, the setback park would extend along the length of the westernmost side of the site. The development setback on the remainder of West Broadway would remain unchanged.

While a portion of the Setback Park/Plaza was previously proposed for public use, the Setback Park will be a larger, more significant and activated public space than the street corner plaza previously approved. The Park Plan requires the Setback Park/Plaza to form a significant destination and gathering point with a mix of hardscape and landscape, and it must contain some lawn or turf space appropriate and available for passive recreation such as sitting and picnicking. Additionally, the Setback Park/Plaza must include a significant focal point at its southernmost boundary adjacent the West Broadway and North Harbor Drive intersection, such as a public art installation, a water feature, or some other element. Thus, the Lane Field Setback Park/Plaza is expected to significantly enhance public access and recreation, and the pedestrian experience in the area beyond that which was required through the Lane Field hotel permit.

As noted above, there are other minor differences between the project and the certified PMP, including revisions to the promenade. Most of these changes are inconsequential improvements to the design of the esplanade. One particular revision which could adversely impact public access is the decision to change the 10-foot wide designated bike path to a 29-foot wide combined bicycle/pedestrian walkway. However, the Port has revised the project description to include a specific requirement that both bicyclists and pedestrians be allowed to share use of the promenade, such that any proposed change to the mix of allowed users on the promenade would require an amendment to this permit.

Special Condition #2 requires compliance with a "Broadway Pier Design Principles and Programming Plan," included as Attachment B. Broadway Pier is located at the terminus of West Broadway, and while always expected to continue as an auxiliary cruise ship terminal, under the existing certified PMP, adjacent to the oval shaped park/plaza, the pier would have been a natural focal point for public access, views, and public recreational activities. Because the oval park will be removed from the plan, it is necessary to ensure that the pier continues to be a public destination point, and that protecting, promoting and enhancing public access and recreation remains a priority at this prime waterfront location.

The Broadway Pier Design Principles and Programming Plan includes many of the same design and program requirements previously proposed by the Port as Phase 1C of the project. The plan requires the design of Broadway Pier to be integrated into the NEVP Phase I Project to create a cohesive waterfront plan that visually and experientially connects the Esplanade, Broadway Plaza, Broadway Pier and the Lane Field Setback Park. Design features will be integrated from the head (Forecourt) to the foot (View Court) of Broadway Pier, and must include a variety of features designed to create an attractive and welcoming pedestrian experience, such as surface color, paving treatment and texture, lighting, and furniture. These improvements will extend the adjacent design of the Harbor Drive improvements onto the pier and provide the opportunity for public access and activities onto the pier.

In addition, the plan requires the Port District to develop and manage a special event waterfront program that includes a wide range of non-profit and for-profit activities to attract local residents and visitors to the bayfront year-round. The public spaces along the North Embarcadero must be programmed to encourage a variety of low to no-cost recreational activities. At a minimum, Broadway Pier will be available to support twelve public meetings and forty non-profit events per year, and the Pier will also be available for special events including concerts, festivals, farmers markets, and private events. Events must strike a balance among community, civic, and private event activity throughout the year. To ensure this balance is met and maintained, every two years for ten years from completion of construction of NEVP Phase 1A and 1B, the applicant must submit a written report to the Executive Director which describes the balance of uses under the program for that reporting period. If the report determines that private activities are dominating the event schedule to the exclusion of community and/or civic groups, the report shall include recommendations to revise the permit process and/or take necessary remedial action to ensure the goal of promoting civic and public events is met and maintained. If necessary, a permit amendment must be obtained to implement the suggested revisions.

The plan also requires that rather than closing at sunset, as approved by the Port, the view court on Broadway Pier must be open March to October from 8 am until 8 pm (approximately 45 minutes after sunset) daily and November to February from 8 am to 6 pm (approximately 45 minutes after sunset) daily, unless otherwise closed for security purposes due to cruise ship activity or special events.

Special Condition #3 requires submittal of a final public access program. The project includes a detailed public access plan designed to ensure pedestrian access along and around Broadway Pier is maintained and promoted both when cruise ships are and are not docked. There are security requirements associated with cruise ships that will restrict public access to Broadway Pier itself shortly before and during cruise ship docking, but continuous (controlled) pedestrian access along the Harbor Drive esplanade must be maintained. The final public access program shall include the types of security requirements that the Port anticipates implementing in relation to the cruise ship terminal. Permanent (non-emergency) changes to security requirements that affect public access and that are not included in the approved final public access program shall require an

amendment to this permit, unless the Executive Director determines that no permit is necessary. The Port District has indicated that it is mandated under Federal law to implement security requirements immediately.; To the extent that there are unanticipated emergency security measures that must be implemented by the Port and that it did not include in the final public access program, after it has implemented these changes, it must still submit them to the Executive Director for review, and an after-the-fact amendment to this permit may be deemed necessary. The plan must also include policies to promote interaction between the public spaces within the NEVP Phase I project, including Broadway Pier, Broadway Plaza, and the Lane Field Setback Park. The policies must place particular emphasis on how public events and activating uses will encourage safe and integrated pedestrian circulation between Broadway Pier and the Lane Field Setback Park across Harbor Drive. Thus, with implementation of the public access plan, the Commission can be assured that the disparate public spaces included in the project will function as a meaningful public destination points, equivalent to the oval park/plaza they are replacing.

Special Condition #4 requires development and implementation of a revised final Parking Management & Transit Opportunity Plan. As described above, the approved project allows removal of a net total of 146 parking spaces. The preliminary Parking Management and Transit Opportunity Plan (contained in the text of the approved permit and referenced in the Public Access Program; see Exhibits #12 and #14), requires that replacement off-site parking spaces be identified, and prohibits removal of more than 73 existing public parking spaces until a Circulation Shuttle is operating.

Although as approved the permit included a phased removal of only 50% of the parking spaces prior to start up of the Circulator Shuttle, upon further review, the Port has expressed concerns that the first stage of the project requires removal of all of the 146 parking spaces, but implementation of the shuttle will be difficult and potentially ineffective until the Harbor Drive improvements are completed and the road reopened. Thus, Special Condition #4 requires that prior to removal of any of the 146 spaces, the Port must identify excess parking spaces located within 10 minutes walking distance of the project, possibly at Lane Field and/or Navy Pier. The spaces must be priced for short-term parking, rather than all-day use, and the spaces must be secured prior to or concurrent with the removal of the existing parking spaces. Signage directing the public to nearby parking opportunities must be provided at the project site. The replacement parking spaces must be available at least until operation of the Embarcadero Circulator Shuttle begins.

The North Embarcadero Circulator Shuttle is a proposal the Port has been exploring for several years to help move visitors and residents around the North Embarcadero region. The Shuttle must be developed in coordination with the approved Lane Field shuttle and other ongoing efforts toward providing a dedicated, non-automobile circulation system connecting off-site parking and the airport region to Port District leaseholds in both the North and South Embarcadero and to adjacent downtown properties. The shuttle must operate, at a minimum, summer months daily from Memorial Day through Labor Day, for no less than eight hours a day. These requirements are more expansive than the

requirements placed on the Lane Field shuttle, given that the proposed project is a broad-reaching Port District project that will both impact and benefit a substantial number of visitors and residents. Furthermore, the plan requires implementation of the shuttle upon the re-opening of North Harbor Drive as part of NEVP Phase 1B. (When the project was previously reviewed by the Commission, the Circulation Shuttle did not have a definite start date). Implementation of the shuttle will ensure that visitors and residents will continue to have easy, affordable access to the waterfront.

Special Condition #5 requires that the applicant, as proposed, make a good-faith effort to acquire that portion of property within the 150-foot setback on the Navy's leasehold at 1220 Pacific Highway to incorporate it into the Setback Park/Plaza. Prior to the issuance of the coastal development permit, the Port District must request funding from the City of San Diego Redevelopment Agency for the acquisition of this property, and if acquired, the Port must undertake the appropriate studies and permits for extension of the setback park/plaza on to this site.

Special Condition #8 requires that the applicant comply with all of the conditions in the coastal development permit originally approved by the Port District. Because the majority of these conditions are related to detailed construction requirements typically enforced by the Port District, the condition requires the Port District to confirm that all of conditions of the previous Port permit not otherwise revised through this coastal development permit have been complied with. Any revisions must be reported to the Executive Director for review and written approval. Revisions that alter the physical aspect of the project (e.g. building height, building footprint, esplanade width, parking or public access) will require a new coastal development permit or amendment to this permit, unless the Executive Director determines that the revision is immaterial and is consistent with the intent of this permit, and that no amendment is legally required.

Coastal Act section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. *See also* 14 C.C.R. § 13055(e). Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition #9, requiring reimbursement of any costs and attorneys fees the Commission incurs "in connection with the defense of any action brought by a party other than the Applicant/Permittee ... challenging the approval or issuance of this permit."

As conditioned, the permit allows the Commission to find the proposed public access improvements consistent with the public access and recreation policies of the Coastal Act, with a follow-up PMPA to ensure the larger planning issues of public recreation, waterfront access, hardscape vs. landscape, public art, and non-automobile circulation are analyzed.

Summary

The proposed project involves public access improvements, but as proposed, the improvements are both substantially different and not equivalent to those called for in the certified PMP. However, as conditioned, implementation of the Waterfront & Lane Field Destination Park Plan, the Public Access Program, and the Broadway Pier Design Principles Plan, will allow the proposed public access improvements to proceed while ensuring that high-quality public open space will be provided on the waterfront, as anticipated and required by the certified Port Master Plan. The Parking Management and Transit Opportunity Plan will ensure that the impacts to public access from the loss of prime waterfront parking will be mitigated through implementation of a shuttle system. All of the potential issues regarding open space and public access and recreation in the North Embarcadero area will be reviewed in the context of a comprehensive Port Master Plan Amendment. Thus, the project can be found consistent with the public access and recreation policies of the certified PMP.

3. Visual Quality. The following PMP policy is relevant and states:

- Views should be enhanced through view corridors, the preservation of panoramas, accentuation of vistas, and shielding of the incongruous and inconsistent.

The project includes the construction of public accessways, landscaping, and open space that are expected to enhance visual quality and views. However, the proposed project originally included construction of a restroom that would have visually encroached into the proposed extension of C Street. The Commission is concerned about continuing incremental encroachments into views of San Diego Bay from upland streets and corridors from recently approved and/or proposed development. Specifically, the auxiliary cruise ship terminal approved at Broadway Pier will eliminate existing bay views, and the Port District recently approved installation of 12-foot high shore-power equipment boxes across the length of the B Street Pier (excepting at the existing driveways). Unlike the South Embarcadero, where views of the bayfront are entirely blocked by development, views of the water and the bayfront environment are still available on the North Embarcadero. Each project that proposes to block bay views must be carefully scrutinized in the context of preserving, not interfering with these precious remaining vistas.

The Port has revised the project to require that that restroom be located outside of the view corridor. However, because specific plans have not yet been developed for the restroom, Special Condition #6 specifically requires the restroom to be located outside of the 40-foot wide C Street right-of-way clear zone, as proposed. The condition also requires landscaping located on West Broadway to be mindful of preserving views to the shoreline. Therefore, as conditioned, the project can be found consistent with the visual protection policies of the certified PMP.

4. Sensitive Biological Resources. Relevant PMP policies include the following:

VIII. THE PORT DISTRICT WILL ENHANCE AND MAINTAIN THE BAY AND TIDELANDS AS AN ATTRACTIVE PHYSICAL AND BIOLOGICAL ENTITY.

XI. THE PORT DISTRICT WILL PROTECT, PRESERVE, AND ENHANCE NATURAL RESOURCES, INCLUDING NATURAL PLANT AND ANIMAL LIFE IN THE BAY AS A DESIRABLE AMENITY, AN ECOLOGICAL NECESSITY, AND A VALUABLE AND USABLE RESOURCE.

The subject site is entirely developed and there are no sensitive biological resources located on the site. However, the site is adjacent to San Diego Bay, and the Commission has typically required that invasive plant species be avoided adjacent to waterbodies.

The Port's draft landscape plan includes two species of palm trees noted by the California Invasive Plant Council (Cal-IPC) as potentially invasive—the Mexican fan palm and Canary Island palm. The Commission's ecologist has reviewed the draft plant list for the project and determined that to ensure no invasive plants are spread as a result of the proposed project, Mexican fan palms and Canary Island Date palms should be prohibited. There are many other species of attractive palms that grow in San Diego, which can be substituted for the proposed invasive species.

Thus, Special Condition #7 prohibits the use of invasive plant species, and requires the removal of Mexican fan palms and Canary Island Date palms from the proposed plant palette. Therefore, as conditioned, the project can be found consistent with the natural resource protection policies of the certified PMP.

5. Geotechnical Hazards/Public Safety. Relevant PMP policies include the following:

VIII. THE PORT DISTRICT WILL ENHANCE AND MAINTAIN THE BAY AND TIDELANDS AS AN ATTRACTIVE PHYSICAL AND BIOLOGICAL ENTITY.

- Establish guidelines and standards facilitating the retention and development of an aesthetically pleasing tideland environment free of noxious odors, excessive noise, and hazards to the health and welfare of the people of California.

As described above, the proposed project involves a variety of public access and recreational improvements, including street improvements and structures such as ticket booths, an information center, and restrooms. Utility improvements are also proposed, including construction of an approximately 1,200-foot long 10-inch diameter PVC gravity sewer within North Harbor Drive and West Broadway, and an approximately 350-foot long 12-inch diameter PVC water main within West Broadway. Other sewer appurtenances such as manholes, clean outs, backwater devices, and laterals to serve the

small buildings proposes, and water appurtenances such as fire hydrants and water services are proposed as well.

According to the applicant, one of the benefits of the NEVP Phase 1 sewer improvements being constructed is that it allows for the decommissioning of one of two sewer pump stations along the North Embarcadero. Pump Station No. 6 (serving Broadway Pier) will be removed and will now be served by the proposed new 10-inch PVC gravity sewer. The applicant notes that eliminating a pump station has multiple benefits, including removal of unsightly electrical gear and motor control panels from the waterfront, a reduction in the maintenance and operation costs of the City's utility system, and a significant reduction in the risk of sewage spills in close proximity to the San Diego Bay. The applicant has stated that Pump Station No. 7, (serving B Street Pier) will remain, as feasibility studies determined that it was not possible to serve B Street Pier with a gravity sewer due to the invert elevations of the existing point of discharge and the potential points of connection.

However, in a seismically active area, there is the potential that during a seismic event, pipe ruptures could contaminate the sensitive resources of the adjacent San Diego Bay. In response to this concern, the applicant has stated:

Existing City standards and requirements for the design and construction of sewer mains already account for seismic activity. For a sewer main of its size and material, the proposed sewer meets those standards and requirements. It should be noted that the City does have standard drawings that show flexible connections for sewer pipe at manholes. However, flexible connections are not required when using PVC pipe. That is because PVC is inherently flexible. This inherent flexibility of the pipe material combined with manufacturer allowable joint deflections of up to 5 degrees provides the best possible mitigation for ground shaking.

The Commission's geologist has reviewed the project and the environmental and technical reports associated with the development, and determined that while the geotechnical analyses performed for the project were neither extensive nor comprehensive with regard to hazard associated with surface fault rupture at the site, given the limited nature of the proposed improvements, in this particular case, the applicant's analysis can be found acceptable. While the ticket booths and information center have the potential to be considered habitable under the Alquist-Priolo Earthquake Fault Zoning Act (structures in which human occupancy would exceed 2000 person hours annually), the proposed structures are limited in size and scale and occupancy, and the risk level with these structures and the utilities can be found consistent with the requirement that development be free of hazards to the health and welfare of the people of California. Larger or more numerous structures that were clearly habitable structures would require additional information and analysis to determine consistency with the hazard policies of the PMP.

The site is subject to liquefaction, and in a large seismic event, the existing seawall (which is not proposed to be changed with this project), would likely sustain damage and the site would be subject to lateral spread and subsidence. Special Condition #10 requires that all of the proposed structures and features of the project be constructed per the recommendations contained in the February 26, 2010 “Geotechnical Report for the North Embarcadero Visionary Plan San Diego California” by Project Design Consultants, which include recommendations for foundation design to mitigate for lateral spread and seismically-induced subsidence. As conditioned, the project can be found consistent with the hazards and public safety policies of the certified PMP.

6. Local Coastal Planning. As described above, the proposed project has been designed and conditioned to avoid impacts on public access, public recreation, visual quality and seismic hazards, consistent with the certified PMP. Changes to improve public access and recreation shall be addressed through a comprehensive planning effort that analyzes the impact of such a decision on the entire North Embarcadero. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the San Diego Unified Port District to continue to implement its certified Port Master Plan.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As described above, the proposed project has been conditioned to avoid adverse environmental impacts. Mitigation measures include implementation of a waterfront destination park plan and a public access plan that includes a public shuttle. These conditions will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Attachment “A” to CDP #A-6-PSD-11-006

WATERFRONT & LANE FIELD DESTINATION PARK PLAN

March 23, 2011

Background

Purpose and Intent

The purpose of this plan is to describe and define the “Phase ID” and “Phase IE” portions of the NEVP Public Access Improvement Phase I Improvements (CDP #A-6-PSD-11-006). For descriptive purposes, the Embarcadero Visionary Plan (NEVP) Phase 1 Coastal Access Features project has been divided into four phases. Phase IA: West Broadway, would improve the existing West Broadway street from North Harbor Drive east to the railroad tracks located between Pacific Highway and Kettner, including lowering the high point of the street, landscaping, signalization, striping, utilities, and lighting.

Phase 1B: North Harbor Drive, would realign North Harbor Drive generally from the B Street Pier to south of the Broadway Pier, eastward of its present location, and transition to existing alignments at Ash Street and F Street. The realigned road would enable construction of an approximately 105 foot wide Esplanade starting at the south side of B Street Pier to the south of Broadway Pier. The esplanade would include a continuous bayfront promenade for pedestrians and bicyclists, a storm water treatment system, a running/walking path, improved landscaping and structural architecture, and a public plaza at the foot of West Broadway flanked by formal gardens. Shade pavilions, ticket kiosks, an information building, restroom and a walk-up café building would be constructed on the eastern portion of the Esplanade. The project would also provide median and storm water improvements along West Broadway between North Harbor Drive and Pacific Highway. In addition, restriping to provide an additional turn lane to the Grape Street and North Harbor Drive intersection would be undertaken.

Phase 1C, which involved public access improvements to Broadway Pier, was removed from the project at the Port District level. However, many aspects of the former Phase 1C have been included in the Public Access Program attached to CDP #A-6-PSD-11-006, which requires various public access and recreation improvements to the landward portion of Broadway Pier, and the interface between Broadway Pier and the Phase ID, the Lane Field Setback Park.

Phase 1D: Lane Field Setback Park/Plaza, addressed in this Plan would create a “park/plaza” in a 150-foot wide setback from Broadway on the Lane Field site. Lane Field is currently a surface parking lot on the northeast corner of West Broadway and North Harbor Drive. On January 8, 2009, the Commission approved, on appeal, a permit for construction of up to 800 hotel rooms, retail stores, and restaurants on this site (A-6-PSD-08-04/A-6-PSD-08-101 Lane Field). Construction of the setback park/plaza would require the Commission to approve an amendment to this permit, and may require additional environmental analysis and discretionary approvals.

Phase IE: Waterfront Park, also addressed in this Plan, consists of identification and evaluation of a waterfront park site, and implementation of a plan to develop a Waterfront Destination Park. The Waterfront Park, along with the Lane Field Setback Park/Plaza, will serve as an alternative to, and replacement of, the oval-shaped park/plaza shown on Figure 11 of the certified Port Master Plan (PMPA) adopted by the Coastal Commission March 14, 2001.

This Plan identifies the requirements of the Lane Field Setback Park/Plaza and Waterfront Destination Park, the components of the associated EIR and the PMPA, and establishes milestones that the San Diego Unified Port District must meet during the environmental review and approval process, to ensure both parks will be constructed in a timely manner.

Lane Field Setback Park/Plaza Plan

Background

On January 8, 2009, the California Coastal Commission (“Coastal Commission”) approved a de novo Coastal Development Permit (CDP) for the proposed Lane Field Development Project (CDP A-6-PSD-08-04/A-6-PSD-08-101) issued to Lane Field San Diego Developers, LLC (LFSDD) consisting of up to 800 hotel rooms, retail stores and restaurants, public park/plazas, and parking. In the interest of improving the North Embarcadero Visionary Plan (NEVP) Phase 1 Project, LFSDD has agreed to revise its Lane Field Development Project to provide additional public space on its current premises if the Port wishes that it do so.

LFSDD will work in cooperation with the NEVP Phase 1 Project applicants (San Diego Unified Port District and Centre City Development Corporation) to develop a public park within a setback of 150 feet from the North Harbor Drive right-of-way, referred to herein as the “Setback Park,” which is identified as Phase 1D of the NEVP Phase 1 Project. While Phase 1D is a condition of approval for the subject permit (Special Condition #1 of CDP #A-6-PSD-11-006), LFSDD and the NEVP Phase 1 Project CDP Applicants recognize that development of the Setback Park/Plaza would require Coastal Commission approval of an amendment to the Lane Field Development Project CDP (CDP A-6-PSD-08-04/A-6-PSD-08-101).

Purpose and Intent

The purpose of the Lane Field Setback Park/Plaza Plan (“Plan”) is to describe and define the “Phase 1D: Lane Field Setback Park/Plaza” portion of the NEVP Phase 1 Project. The Plan consists of the evaluation of the Setback Park/Plaza as a destination park that would serve as an alternative to, and partial replacement of, the park/plaza at the foot of Broadway depicted on Figure 11 of the certified Port Master Plan. Development of this new park/plaza would require environmental analysis, public outreach, and discretionary approvals. This Plan identifies the requirements of the Setback Park/Plaza and establishes milestones which must be met to ensure the Setback Park/Plaza will be constructed in a timely manner.

Framework and Composition

As part of Phase 1D of the Project, the Port and the Lane Field developer must establish a 150-foot setback from North Harbor Drive for the entire distance between the prolongation of “B” Street to the north and West Broadway to the south. Within the setback, the Port and the Lane Field developer must design, permit, and construct public space (the “Setback Park/Plaza”) as part of the NEVP Phase 1 project or as part of the Lane Field project, whichever development occurs first, as further defined on Attachment “A”. Prior to the earlier of the substantial completion of the NEVP Phase 1 project or the opening of the first hotel to be constructed as part of the Lane Field project, the Setback Park/Plaza must be constructed and the Port must allocate funding sufficient to complete the remainder of the Setback Park/Plaza on 1220 Pacific Highway.

The Setback Park/Plaza shall consist of a public park/plaza approximately 1.66 acres in size. The Setback Park/Plaza shall be expandable by approximately 0.5 acres in size with the addition of land from the 1220 Pacific Highway site. The Setback Park/Plaza will form a significant destination and gathering point that partially replaces the approximate quality and quantity of the park/plaza at the foot of Broadway depicted on Figure 11 of the certified Port Master Plan. The Setback Park/Plaza can have a mix of hardscape and landscape, but it must contain some lawn or turf space appropriate and available for passive recreation such as sitting and picnicking. Additionally, the Setback Park/Plaza must include a significant focal point at its southernmost boundary adjacent to the West Broadway and North Harbor Drive intersection. This focal point may be a public art installation, a water feature, or some other element, subject to the approval of the Executive Director of the Coastal Commission.

Should the Port and/or LFSDD acquire the 1220 Pacific Highway site, then the 150-foot setback will continue onto that site up to the prolongation of “B” Street, and the Setback Park will be extended onto that additional space up to an additional approximately 0.5 acres, thus creating a contiguous approximately 2.16-acre Setback Park.

Other requirements pertaining to the Setback Park/Plaza are described below:

- (a) Through the NEVP Port Master Plan Amendment now in process, the Port must adopt an appropriate public recreational land use designation for the Setback Park/Plaza and, to the extent feasible, incorporate the Setback Park/Plaza into the Coastal Walk.
- (b) The eastern boundary of the Setback Park/Plaza may be curvilinear or otherwise articulated so long as the gross land area within the setback is the same as if the eastern boundary were drawn as a straight line.

- (c) The Lane Field developer has the right to develop an area extending approximately 25 feet west from the eastern boundary of the setback for uses ancillary to the Lane Field project. This area shall balance public vs. semi-private uses (i.e. no permanent barriers, etc.). The planning and design of this area must occur through a public process and public access to this area must not be limited in the area any more than is necessary to comply with laws governing the activities proposed for the area by the Lane Field developer. Because this area may be developed with private uses, it has not been added to the approximate 1.66 acres of the public Setback Park/Plaza. However, the private uses in this area must support, enhance, and activate the adjacent public space. Commercial uses such as retail kiosks, café seating, and public parking would be appropriate uses.
- (d) The Lane Field developer has the right to develop underground structured parking beneath its project site which may extend under the Setback Park/Plaza to the extent required, if necessary, to accommodate all project parking requirements plus the 300 public parking spaces required by the North Embarcadero Visionary Plan Master EIR.
- (e) The Port District shall require the various design studies for the Setback Park/Plaza to emphasize the creation of a viable program that will activate both the public and private spaces within and contiguous to it, and seek public input in the form of public outreach forums for the proposed designs.
- (f) The Port must provide the public with an opportunity to comment on any selected designs for the Setback Park/Plaza before they are finalized.
- (g) The Lane Field developer has the right to occupy and use the Setback Park/Plaza for staging during construction of its Lane Field project. The Lane Field developer's staging will be permitted through the Port's standard right of entry agreement or such other agreement as the Port and the Lane Field developer determine.
- (h) The Lane Field developer has the same rights as any other party to occupy and use the Setback Park/Plaza consistent with the Port's permitting policies for public parks.

Milestones and Timeframes

An outline of the required milestones for review of the Plan and construction of the Setback Park/Plaza is provided below. Unless otherwise specified, all timeframes below shall commence following commencement of construction of either the NEVP Phase 1A or 1B sub-phase, whichever occurs first, such that completion of the Setback Park/Plaza occurs within three years

following commencement of construction of either the NEVP Phase 1A or 1B sub-phase, whichever occurs first.

Construction Timeline

Public outreach, design, and permitting of the Setback Park/Plaza must be complete within one year following Commission action on the subject Coastal Development Permit.

Task 1: Concept for Setback Park/Plaza. Within four months following Commission action on the subject Coastal Development Permit, the Applicant must develop a conceptual plan for the Setback Park/Plaza. The conceptual plan must include, at a minimum, site renderings and a layout sufficient to convey an understanding of the design theme and quality of the Setback Park/Plaza.

Task 2: Public Outreach and Project Design. Within one year following Commission action on the subject Coastal Development Permit, the Applicant must complete public outreach, design, and any entitlements required for development of the Setback Park/Plaza.

Task 3: Setback Park Construction. Within three years following commencement of construction of either the NEVP Phase 1A or 1B sub-phase, whichever occurs first, the Applicant must complete construction of the Setback Park/Plaza.

Waterfront Park Plan

Background

The Waterfront Park, Phase 1E of CDP #A-6-PSD-11-006, will be the final component in the Port's replacement of the 2.5 acre oval-shaped park/plaza at the foot of Broadway. Because the exact location of this waterfront component has not been identified yet, the location and design of the remaining 1.25 acres of public park/plaza will be determined through the Port Master Plan Amendment process.

Waterfront Park Framework and Composition

The Waterfront Park shall be a minimum of 1.25 acres in size, to replace half the approximate size of the oval-shaped park/plaza. The Park need not necessarily be entirely contiguous (i.e., the park space could be divided into more than one area), but the majority of the Waterfront Park must be one contiguous space, such that it forms a significant destination and gathering point. The Waterfront Park must be on the waterfront, that is, bayward of Harbor Drive. The Park can have a mix of hardscape and landscape, but it must contain some lawn or turf space appropriate and available for passive recreation such as sitting and picnicking.

Port Master Plan Amendment and Environmental Impact Report Content

The Port Master Plan Amendment will be the primary means by which Phase IE of the NEVP Public Access Improvements permit shall be implemented. The EIR for the PMPA shall include, at a minimum, the following:

- Identifying potential locations for a proposed alternative Waterfront Destination Park including, at a minimum:
 - The esplanade near Navy Pier, in the area between the Navy Broadway Complex and the waterfront, including an evaluation of closing Harbor Drive in this location to automobile circulation (except for emergency vehicles or shuttle access) to promote pedestrians, bicycles, and pedicabs circulation;
 - The esplanade across from or near the County Administration Building;
- A qualitative (i.e. type of public experience) and quantitative (i.e. accounting of public open space) evaluation of the Port's ability to provide an alternative Waterfront Destination Park in each location.
- Identification of a preferred alternative for the location of the Waterfront Destination Park.

The amount of public space proposed at the foot of Broadway within the proposed Phase 1B subphase (North Harbor Drive realignment and esplanade) may be included in the count towards the 1.25 acres required to be part of the Waterfront Destination Park

Other elements to be analyzed in the EIR and incorporated into the PMPA shall include:

- Revisions to existing Figure 11 to remove the oval park/plaza at the foot of Broadway and incorporate the replacement Waterfront Destination Park;
- Replacing parking removed by development of the alternative Waterfront Destination Park;
- Clarifying and/or revising the land use category "Park/Plaza" to differentiate between grassy "park" and hardscape "plaza;"
- A comprehensive evaluation of parks, plazas or other public open space in the North Embarcadero area, including an evaluation of the size and functionality of existing and planned spaces;
- Reducing automobile circulation in the Embarcadero area;
- Identifying opportunities to enhance pedestrian-oriented circulation along the waterfront, including along North Harbor Drive
- Converting Navy Pier into a park;
- Defining future uses of the Grape Street piers*; and
- Implementing the Embarcadero Circulator Shuttle.

*The existing PMP states that the three existing piers at Grape Street will be removed and replaced with a 30,000 sq.ft. curvilinear public pier with a 12,000 sq.ft. public boat dock

designated as Park/Plaza. If the PMPA includes removal of the curvilinear public pier and/or public boat dock from the PMP, the public pier component must be replaced within the North Embarcadero and the EIR shall include an analysis of the impact to public access and recreation, and replacement of the pier with a substitute public pier of comparable size.

Other programmatic elements and specific projects may be considered as a result of future public outreach, Coastal Commission staff recommendations, and direction received from the Board of Port Commissioners.

Timeframes and Funding Sources

An analysis of timeframes for construction, estimation of park construction costs, and identifying and securing funding sources for the alternative Waterfront Destination Park could either be done through the EIR, or a separate stand-alone document, but in either case, construction schedules and an identified funding source must be included in the PMPA. An outline of the required milestones for review of the Plan and construction of the park is provided below. Deadlines for individual aspects of the project may vary, but in total, the Port must submit a PMPA to the Commission within two years of Commission approval of the subject permit, and construction of the park must be completed within two years of certification of the PMPA by the Commission.

EIR and PMPA Milestones

The PMPA and environmental review processes can be lengthy and controversial. However, the following milestones establish a timeline for preparing the PMPA for Coastal Commission consideration. Any of these milestones may be completed earlier than the scheduled due dates and all are subject to adjustment only as described below.

The Port commenced the PMPA process in the fall of 2009 and selected an environmental consultant on January 5, 2010. The final scope of the PMPA and accompanying environmental document will be determined through the public outreach described in Task 1 below.

TASK 1: Commence and Complete Public Outreach to Define PMPA. At a minimum, the Port will commence and complete public outreach to establish the parameters of the PMPA and to develop alternatives to study during the environmental review. The Port will consult with Coastal Commission staff regarding the scope of public outreach. Additional public outreach otherwise required by the PMPA and environmental review processes will be conducted in accordance with Port policy and practices, the Coastal Act, and California state law.

TASK 1 is due no later than six months after COMMISSION ACTION ON THE SUBJECT COASTAL DEVELOPMENT PERMIT.

TASK 2: Authorize Consultant Team to Prepare Environmental Document for PMPA. Following completion of Task 1, the Port will refine the PMPA scope and content based on the outcome of the public outreach, and authorize its selected consultant to prepare a draft EIR for the PMPA.

TASK 2 is due no later than three months after COMPLETION OF TASK 1.

TASK 3: Finalize Environmental Document and PMPA and Conduct Port Public Hearing, and Transmit PMPA to Coastal Commission. These processes will be conducted in accordance with Port policy and practices, the Coastal Act, and California state law, and include response to comments and public hearings by the Board of Port Commissioners. If the PMPA and environmental document are approved by the Board of Port Commissioners, then the PMPA will be transmitted as soon as practicable thereafter to the Coastal Commission for review and certification.

TASK 3 is due no later than two years after COMMISSION ACTION ON THE SUBJECT COASTAL DEVELOPMENT PERMIT.

At the completion of each Task, Port staff will submit a written status report to Commission staff summarizing the progress made up to that point, and a proposed schedule for completion of the remaining tasks.

Completion of the Waterfront Destination Park Milestones

Completion of the Waterfront Destination Park shall occur within two years of Commission approval of the PMPA. At the completion of each of the following Tasks, Port staff will submit a written status report to Commission staff summarizing the progress made up to that point, and a proposed schedule for completion of the remaining tasks:

Park Task 1: Amend the Joint Powers Authority (JPA) Agreement.

Park Task 2: Procure Park Designer.

Park Task 3: Complete Public Outreach and design; Obtain Permits to Construct Park.

Park Task 4: Complete Public Advertising and Bidding; Award Contract to Build the Park.

Park Task 5: Complete Park Construction.

Excusable Delays

Recognizing that there are delays inherent in the PMPA and environmental review processes, the milestone schedule will be extended one day for each day that a delay is caused by:

- (i) litigation by a third party not affiliated with or under the direction of the Port that prevents the Port from meeting any of the deadlines expressed or implied within the milestone schedule; and
- (ii) riots; natural disasters and other acts of God, including, without limitation, fires, earthquakes, floods, unusually severe weather conditions, and hurricanes; labor strikes; delays caused by governmental agencies other than the Port; acts of terrorism; and war on United States soil. These events will only extend the schedule if they result in a delay to the Port's ability to process the PMPA despite the Port's diligent and reasonable best efforts to proceed with the PMPA.

Design Principles for Lane Field Setback and Waterfront Parks

The Port must comply with the following design principles:

- 1. Create a unified waterfront design in accordance with the North Embarcadero Visionary Plan (NEVP) Phases 1A and 1B sub-phases, including landscaping, lighting, site furnishings, and hardscape.
- 2. Establish a world-class design for San Diego and the waterfront.
- 3. Enhance the livability of the San Diego residents and downtown workers through both active and passive recreation opportunities, which may include lawn space for passive recreation and plazas, water features, kiosks, activating uses, and public art.
- 4. Create an environmentally responsible design.
- 5. Promote a sense of ownership by including the community in the planning and design process through public workshops.
- 6. Ensure that the parks are usable for large gatherings such as public events, community festivals, outdoor art exhibits, and concerts.
- 7. Include universal design public restrooms at the Lane Field Setback Park/Plaza and where appropriate in other segments.

8. Include site improvements to, and including, the curbs and gutters for North Harbor Drive and West Broadway.
9. Comply with the District's Public Art Program, BPC Policy No. 609.
10. Comply with other design principles developed through public outreach.

Failure to Meet Milestones

Should the Port fail to meet any of the above milestones for either Phase 1D or 1E, then the Port will promptly notify the Executive Director of the Coastal Commission of such failure. Within thirty days of missing any milestone, the Port may request an extension of time from the Executive Director of the Coastal Commission, and if the extension is granted, may complete the remaining task(s) within the time granted. If an extension is not granted, the Port agrees to submit an amendment to this permit for a revised PMPA and/or park construction timeline.

Failure to either meet the above milestones or to obtain an extension of time to meet such milestones will constitute a Coastal Act violation and may result in formal enforcement action. This formal action could include recordation of a notice of violation on the Port's property, a civil lawsuit, the issuance of a cease and desist and/or restoration order, and/or imposition of monetary penalties, including daily penalties of up to \$15,000 per day under section 30820(b) and other applicable penalties pursuant to chapter 9 of the Coastal Act.

Attachment “B” to CDP #A-6-PSD-11-006

BROADWAY PIER DESIGN PRINCIPLES AND PROGRAMMING PLAN

March 23, 2011

Purpose and Intent

The purpose of this plan is to describe and define how public use of the Broadway Pier will be encouraged and enhanced.

The design of Broadway Pier shall be integrated into the NEVP Phase I Project to create a cohesive waterfront plan visually and experientially connecting the Esplanade, Broadway Plaza, Broadway Pier and the Lane Field Setback Park. The space will be multi-functional, flexible, and balanced in design to be conducive to daily public use and special events, while still respecting the need to maintain auxiliary maritime operations of existing (and historically used) water-dependent cruise ship berths adjacent to Broadway Pier. These design features will be integrated from the head (Forecourt) to the foot (View Court) of Broadway Pier, and will include a variety of features designed to create an attractive and welcoming pedestrian experience, such as surface color, paving treatment and texture, lighting, and furniture. These improvements will extend the adjacent design of Phase 1B onto the pier and provide the opportunity for public access and activities on the pier.

In addition, the Port District shall develop and manage a special event waterfront program. Programming shall include a wide range of non-profit and for-profit activities to attract local residents and visitors to the bayfront year-round. The public spaces along the North Embarcadero shall be programmed to encourage a variety of low to no-cost recreational activities. The area will be designed with public use in mind. Fencing, utilities, and other obstacles to visual and physical access will be minimized to the extent feasible and shall only be allowed as necessary for security.

Design Principles

The Port must comply with the following design principles:

1. Maintain the flexibility and availability of Broadway Pier for general public use, cruise ships, and special events.
2. Include surface color, treatment, and texture enhancements that promote recreational opportunities and the feeling of “walking over the water,” rather than asphalt driving surfaces.
3. Integrate surface design features to encourage continuous walking, jogging, and biking to the view court.

4. Promote, where appropriate, activity zones (i.e. child play areas, games, dancing, art exhibits, yoga, enjoying bay views).
5. Promote, where appropriate, design features and amenities reflecting the history of San Diego Bay in partnership with and/or consideration of existing San Diego organizations (i.e. maps, educational signage, etc. representing local maritime history, bay wildlife, etc.).
6. Work with event planners to create tent and/or bleacher layouts for possible music concerts, festivals, farmers markets, etc.
7. Incorporate bay/coastal access signage.
8. Create a unified waterfront design in accordance with the North Embarcadero Visionary Plan (NEVP) Phases 1A, 1B, 1D, and 1E including landscaping, lighting, site furnishings, and hardscape.
9. Visually screen, remove entirely, or relocate from the center of the Broadway Pier forecourt the existing utility island to maximize public use of the forecourt.
10. Design according to a program of special events including infrastructure for public meetings, nonprofit events, Port-sponsored events, and private events.
11. Ensure that the area is usable for large gatherings such as public events, community festivals, outdoor art exhibits, and concerts.
12. Comply with other design principles developed through public outreach.

Programming Criteria

The forecourt and view court of Broadway Pier will be generally open and available to the public, with the exception of when cruise ships are berthed, “B” Street Pier is under construction, or during temporary emergency situations.

The Port District will develop a program of special events for activation of the Broadway Pier forecourt and view court. The program will be developed around the Port’s cruise schedule and Port-sponsored events such as The Big Bay Balloon Parade. Cruise activity at Broadway Pier is concentrated between Labor Day and Memorial Day. Port-sponsored events such as parades typically occur on or near holidays. At a minimum, however, on non-cruise or Port-sponsored special event days, Broadway Pier will be available to support twelve public meetings and forty non-profit events per year, subject to interest. The Pier will also be available for special events including concerts, festivals, and farmers markets, and private events. As with all Port public facilities, a permit may be required for use. If so, then the permit will be issued consistent with the District’s standard permitting process which includes non-profit rates.

The program shall strike a balance among community, civic, and private event activity throughout the year. Every two years for ten years from completion of construction of NEVP Phase 1A and 1B, the applicant shall submit a written report to the Executive Director which describes the balance of uses under the program for that reporting period. If the report determines that private activities are dominating the event schedule to the exclusion of community and/or civic groups, said report shall include recommendations to revise the permit process and/or take necessary remedial action to ensure the goal of promoting civic and public events is met and maintained.

The applicant shall apply for a coastal development permit amendment for the subject permit within three months of submission of any of the above required reports that include recommended changes or modifications to the permitting process recommended by the report, unless the Executive Director determines that no amendment is legally required.

The view court on Broadway Pier will be open March to October from 8 am until 8 pm (approximately 45 minutes after sunset) daily and November to February from 8 am to 6 pm (approximately 45 minutes after sunset) daily, unless otherwise closed for security purposes due to cruise activity or special events.

Implementation Timeline

Public outreach and design must commence prior to or concurrent with the construction of Phase 1A and 1B. Construction must be completed no later than 3 months following completion of Phase 1B (North Harbor Drive).

[Click here to go to the exhibits.](#)